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Decision

Matter of: Master Boat Builders, Inc.; Steiner Construction Company, Inc.

File: B-421254; B-421254.2; B-421254.3; B-421254.4; B-421254.5;
B-421254.6; B-421254.7; B-421254.8

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DIGEST

1. Protest that the awardee's proposal is ineligible for award because it allegedly fails to meet a material solicitation requirement is denied where the record demonstrates that the allegation is based on an unreasonable interpretation of the solicitation's requirements.

2. Protests challenging the evaluation of proposals and source selection decision are denied where the record shows that both were reasonable and consistent with the terms of the solicitation.

DECISION

Master Boat Builders, Inc. (MBB), a small business of Coden, Alabama, and Steiner Construction Company, Inc., a small business of Bayou La Batre, Alabama, protest the award of a contract to Birdon America Inc., a small business of Denver, Colorado, under request for proposals (RFP) No. 70Z02321RPRT00300, issued by the Department of Homeland Security, United States Coast Guard (USCG) for the USCG's waterways

commerce cutter (WCC) program. The protesters challenge virtually every aspect of the evaluation of proposals and the selection decision.¹

We deny the protests.

BACKGROUND

USCG seeks to replace the current fleet of River Buoy Tenders (WLR) and Inland Construction Tenders (WLIC) – a total of 31 cutters commissioned between 1944 and 1991. Agency Report (AR), Tab C, Source Selection Evaluation Board (SSEB) Report at 1. This fleet provides the capabilities necessary to execute and support statutory and federally mandated missions of establishing, maintaining, and operating aids to maritime navigation in inland waterways and western rivers.² AR, Tab A.1, RFP at 26. The mission of the cutters falls into three main categories: (1) constructing and maintaining fixed aids to navigation (ATON); (2) repositioning, replacing, and removing river buoys based on changes in water level and river conditions; and (3) positioning and maintaining floating federal ATONs. *Id.* The current contracting action is for the detailed design and construction for this fleet and estimates the production of 27 cutters, specifically, 16 WLR and 11 WLIC vessels. *Id.*

On April 30, 2021, the agency issued the RFP, set aside for small businesses, using Federal Acquisition Regulation (FAR) part 15 procedures. MBB Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 2. The RFP stated that proposals would be evaluated under the following evaluation factors, listed in descending order of importance: technical approach; systems design and production capability; management approach; past performance; and price. RFP at M-3 to M-4. Proposals were to be evaluated by the following teams: technical evaluation team (TET); past performance evaluation team (PPET); and price evaluation team (PET). MBB COS/MOL at 6.

Regarding the technical evaluation factors, the RFP stated that the agency would assess adjectival ratings to reflect the technical merit of the proposals, and separate risk ratings based on the degree to which a proposed approach may cause disruption of schedule, increased costs, degradation of performance, the need for increased government oversight, or increased likelihood of unsuccessful performance. *Id.* at M-2. The RFP further stated that risk was an essential element of the evaluation and would be assessed as manifested by the identification of weaknesses, significant weaknesses, or deficiencies in the proposal. *Id.* at M-4. The adjectival ratings to be assigned were

¹ Although addressed in a single decision, our Office did not consolidate the protests. Unless specifically indicated, record citations are to the documents produced in both protests.

² The RFP was amended four times prior to the agency's conduct of discussions and three more times after that. Citations to the RFP are to the conformed solicitation through the first four amendments, as provided by the agency as Tab A.1.

as follows: superior, good, satisfactory, marginal, or unsatisfactory. AR, Tab B, Source Selection Plan (SSP) at 32. In addition, the risk ratings were as follows: low, moderate, high, or unacceptable. *Id.*

The RFP stated that past performance would be evaluated to assess the degree of confidence the government found in offerors' and their major subcontractors' ability to supply products and services that meet the government's needs based on a demonstrated record of performance. RFP at M-7. Evaluators were to assign confidence ratings as follows: substantial, satisfactory, neutral, limited, or no confidence. AR, Tab B, SSP at 46. Regarding price, the RFP stated that the government would perform a price analysis using the techniques in FAR sections 15.305(a)(1) and 15.404-1, as applicable, and compare the total price proposed by an offeror against competing proposals and the independent government cost estimate (IGCE) to determine whether the prices were fair and reasonable. RFP at M-8.

The RFP stated that the non-price factors, when combined, were significantly more important than price. *Id.* at M-3. Further, the RFP stated that award would be made to the offeror whose proposal represented the best value to the government, and further stated:

[P]roposals with the lowest price may not be chosen for award if a higher priced proposal is determined, by evaluation of the proposals according to the established evaluation factors, to be more advantageous to the Government. In such case, the superiority of the successful Offeror in areas other than price may justify the added expenditure.

Id. at M-2.

The agency received five proposals, including from Birdon, MBB, and Steiner, engaged in discussions with all offerors, and requested final proposal revisions. MBB COS/MOL at 2, 7. The final evaluation results were as follows:

	Birdon	MBB	Steiner
Technical Approach	Superior/Low	Marginal/Moderate	Marginal/Moderate
System Design and Production Capability	Superior/Low	Good/Low	Satisfactory/ Moderate
Management Approach	Good/Low	Good/Low	Marginal/Moderate
Past Performance	Satisfactory	Satisfactory	Neutral
Total Evaluated Price	\$1,187,180,305	\$932,429,186	\$897,806,716

AR, Tab C, SSEB Report at 4.

The source selection advisory council (SSAC) considered the TET's evaluation, along with evaluation reports from the past performance and price evaluation teams, concluded that the proposal from Birdon represented the best value to the government, and recommended that award be made to Birdon. MBB AR, Tab D, SSAC

Recommendation at 6. The source selection authority (SSA) concurred in the evaluation findings and the SSAC's recommendation, and selected Birdon for award. MBB AR, Tab E, Source Selection Decision Document (SSDD) at 1, 4.

On October 5, 2022, USCG awarded the contract to Birdon. MBB COS/MOL at 8. The agency provided the protesters with debriefings, and these protests followed.

DISCUSSION

Steiner argues that Birdon's proposal should have been rejected because it does not own its proposed shipyard; MBB similarly argues that Birdon could not have demonstrated production capability because it has no experience comparable to the WCC program, and does not own its production facility. Both protesters challenge the weaknesses and significant weaknesses assessed in their proposed technical approaches, and argue that the evaluation was disparate and unfairly favored Birdon. The protesters additionally argue that the agency failed to properly evaluate Birdon's price for reasonableness. Finally, the protesters argue the selection decision is flawed as a result of multiple errors in the evaluation, and that the SSA failed to meaningfully consider price when selecting Birdon for award. Although we do not address each and every argument raised by the protesters, we have considered them all and conclude that none provide a basis to sustain the protests.

Ownership of Production Facility

Steiner argues the agency should have rejected Birdon's proposal because the RFP required offerors to own their own shipyards, and Birdon failed to meet this requirement. Steiner Protest at 16-18.³ Steiner further contends that Birdon's proposal failed to demonstrate that at the time of proposal submission it had a shipyard and labor workforce capable of performing the requirements. Rather, the shipyard and workforce belong to Birdon's proposed major subcontractor Bollinger, with whom it may fail to successfully negotiate a post-award subcontract and lease. According to Steiner, Birdon's failure to demonstrate that at the time of proposal submission it had the capability to meet the RFP's requirements, should have rendered Birdon's proposal unacceptable.⁴ Steiner Comments & 3rd Supp. Protest at 3-15.

³ Steiner filed its initial protest on October 31, 2022, however, on November 4, Steiner filed an amended and supplemental protest. Citations to the Steiner Protest in this decision are to the amended and supplemental protest document filed on November 4.

⁴ On October 4, 2022, the Small Business Administration (SBA) issued a size determination finding that Birdon America Inc. was a small business and manufacturer for this procurement. MBB Supp. Protest, Exh. B, SBA Size Determination 05-2022-030 at 10. In so finding, the SBA acknowledged that Birdon "states that Bollinger, its subcontractor, will be focused on steel hull fabrication and assembly and paint only," and "has openly stated that it does not own the shipyard needed to manufacture the end

Similarly, MBB challenges the agency's evaluation of Birdon under the systems design and production capability factor on the basis that Birdon does not own its own shipyard and has no proven processes for building a ship of this complexity for a government or commercial project. MBB Supp. Protest at 6-10. MBB argues that Bollinger is proposed only to construct the hull of the cutters, and Birdon's plan to also lease production facilities from Bollinger introduces enormous risk to the agency. *Id.* at 10-12.

The agency argues that nothing in the solicitation required offerors to own their proposed production facilities, and in addition, expressly anticipated that offerors would propose subcontractors. Steiner COS/MOL at 8-9; MBB COS/MOL at 37-38. The agency further argues that it properly assessed Birdon's proposal in accordance with the stated evaluation criteria regarding production capability, and reasonably assigned Birdon's proposal overall factor ratings of superior and low risk under the system design and production capability factor. Steiner COS/MOL at 10-11; MBB COS/MOL at 37-38.

Where a dispute exists as to a solicitation's actual requirements, we begin by examining the plain language of the solicitation. *Point Blank Enters., Inc.*, B-411839, B-411839.2, Nov. 4, 2015, 2015 CPD ¶ 345 at 4. We resolve questions of solicitation interpretation by reading the solicitation as a whole and in a manner that gives effect to all provisions; to be reasonable, and therefore valid, an interpretation must be consistent with such a reading. *Desbuild Inc.*, B-413613.2, Jan. 13, 2017, 2017 CPD ¶ 23 at 5. If the solicitation language is unambiguous, our inquiry ceases. *Id.*; *Qwest Gov't Servs., Inc. d/b/a Centurylink QGS*, B-419597, B-419597.2, May 24, 2021, 2021 CPD ¶ 217 at 5.

Further, in reviewing a protest challenging an agency's evaluation, our Office will not reevaluate proposals, nor substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. *Analytical Innovative Sols., LLC*, B-408727, Nov. 6, 2013, 2013 CPD ¶ 263 at 3. Rather, we will review the record only to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. *Interactive Info. Sols., Inc.*, B-415126.2 *et al.*, Mar. 22, 2018, 2018 CPD ¶ 115 at 7. We will not sustain a protest where the agency's evaluation is reasonable, and the protester's challenges amount to disagreement with the agency's considered technical judgments regarding the specific elements of an offeror's proposal. *BNL, Inc.*, B-409450, B-409450.3, May 1, 2014, 2014 CPD ¶ 138 at 7.

Here, the protesters' disagreement with the evaluation of Birdon stems from the belief that the RFP required, at least implicitly, that the offeror own the shipyard proposed for production of the cutters. As noted, the second most important evaluation factor was system design and production capability. Related to production capability, the RFP instructed as follows:

product. However, [Birdon] and Bollinger do intend to execute a lease agreement after the contract is awarded." *Id.* at 5, 7.

The Offeror shall provide a discussion of its current production capability and proposed future plans, if any, to develop and mature production capabilities to construct and deliver both variants of the WCC. The discussion of production capability shall demonstrate to the Government that the Offeror has the necessary capability and capacity to produce and deliver the WCC on the schedule set forth in the RFP.

RFP at L-17. The RFP further specified additional information the offeror should provide, to include a “[d]escription of the workforce capability and capacity . . . required to construct WCC through planned delivery of the final WCC” and “[a]n explanation of how the required workforce for WCC differs from its current workforce . . .” as well as other information, such as an integrated master schedule, build strategy, and plans for launching and delivering the cutters. *Id.* at L-18 to L-19.

In addition, the RFP expressly contemplated that offerors would propose to use subcontractors. For example, with regard to production capability, the RFP instructed that “[i]f major elements of WCC hull and structure construction are expected to be accomplished by subcontractors, the Offeror shall provide information [otherwise required by the RFP regarding workforce capability and capacity] for each subcontractor.” *Id.* at L-19. The RFP stated that production capability would be evaluated as follows:

The Government will evaluate the Offeror’s sufficiency, availability, and production capability of the Offeror’s proposed facilities and manpower to construct the WCCs as required by this Solicitation. The Government will evaluate the effectiveness and efficiency of the proposed production plan, processes, design and production facilities, manpower loading charts, and work sequencing; including any planned facility upgrades and improvements and the timing of these planned upgrades and improvements. The Government will also evaluate potential conflicts with other work being performed in the facility to determine whether the Offeror has the existing production capability and necessary capacity to build WCCs.

Id. at M-5.

The TET identified three strengths, and no weaknesses, significant weaknesses, or deficiencies, in Birdon’s proposal under the systems design and production capability factor. Tab C.4, Birdon TET Report at 21-26. In particular, the TET identified the following strength regarding Birdon’s proposed production facility:

The proposal offers the use of Bollinger Shipyards to construct WCCs. Bollinger currently constructs the USCG’s Fast Response Cutter [(FRC)] and proposes to use the same facilities and infrastructure to build WCCs and has demonstrated experience with government-specific processes and peculiarities of ship construction. The FRC is a ship of a similar size,

although its systems are more complex than the systems for the WCC variants. The proposal states that Bollinger's facilities require "no major modifications or investments to be able to manufacture the WLR and WLIC to the quantities required in the RFP and, if necessary increased numbers[.]"

Id. at 24. The TET concluded that Bollinger's shipyard was a benefit to the government because construction activities could begin without major modifications or investments, mitigating the risk of schedule delay. *Id.* The agency also identified the use of Bollinger's shipyard to produce the cutters as part of a strength in which it recognized that Birdon's use of several specialty subcontractors for discrete portions of the requirement demonstrated its understanding of the complexity of the engineering and construction processes in a way that would mitigate risk of schedule delay and performance degradation that could lead to unsuccessful contract execution. *Id.* at 23-24.

Contrary to the protesters' arguments, the RFP did not require offerors to own their proposed production facilities. Other than the production capability criteria discussed above, the protesters have not cited to any other RFP provision to support their position that offerors were required to own their shipyards, or currently employ the labor workforce needed during production. Instead, as noted, the RFP required offerors to describe their current production capability and proposed future plans to develop and mature production capabilities, if any, and to explain how the required workforce differed from its current workforce. Thus, reading the RFP as a whole, we conclude that there is no ambiguity in the RFP and no requirement that the offeror own the proposed production facility or currently employ the required workforce. To the extent that the protesters' arguments are premised on a requirement that is not present in the RFP, the protests fail to demonstrate that the evaluation was unreasonable.

MBB also argues that the evaluation of Birdon under the system design and production capability factor is unreasonable because the agency failed to consider the enormous risk posed by Birdon's heavy reliance on the capabilities of Bollinger. According to MBB, the agency's evaluation is "largely based on the TET's unsupported belief that Bollinger's prior shipbuilding experience would somehow translate to 'lessons learned' by Birdon--even though Birdon did not participate in Bollinger's prior contract." MBB Comments & 3rd Supp. Protest at 30; see generally *id.* at 28-35. In particular, to support this allegation, MBB provides a declaration from its consultant, who concludes that Birdon relies heavily on Bollinger's processes and facilities but does not demonstrate its own expertise; for Birdon to manage Bollinger as its subcontractor "would be unprecedented on a project of this magnitude" and should have been considered to be a "high risk approach"; and, Birdon cannot benefit from any lessons learned from Bollinger's performance of the FRC contract because it was not a participant, and it is "absurd for Birdon to claim, and the USCG to accept" that Birdon can successfully execute the contract on schedule. *Id.*, exh. A, MBB Consultant Decl. at 2-4.

Here, as discussed, the record shows that the agency was fully aware of Birdon's plans to lease a facility from and enter into a subcontract with Bollinger, as presented in Birdon's proposal. To the extent that these arguments appear to present veiled challenges to Birdon's status as a small business qualified to perform the WCC requirements, our Office does not consider matters within the exclusive statutory authority of the SBA to decide. 4 C.F.R. § 21.5(b); see *Dehler Mfg. Co., Inc.*, B-416963, Dec. 20, 2018, 2018 CPD ¶ 7 at 3 ("The Small Business Act, 15 U.S.C. § 637(b)(6), gives the SBA, not our Office, the conclusive authority to determine matters of small business size status for federal procurements."). Moreover, MBB's arguments suggest the agency's evaluation should have considered Birdon's lack of prior experience and expertise. However, based on our review of the record, we find that the agency evaluated Birdon's proposal consistent with the RFP's stated criteria under the system design and production capability factor--which required an evaluation of the proposed facilities and production plan and did not require a review of the offeror's past experience. The protesters' arguments present their disagreement with the agency's evaluation, but are insufficient to show that the evaluation was unreasonable. *BNL, Inc., supra*. Accordingly, these allegations are denied.

Evaluation of Technical Approach

Both protesters challenge weaknesses and significant weaknesses identified in their proposals under the evaluation of the technical approach factor, the most heavily weighted factor. MBB challenges two significant weaknesses, and two of eight weaknesses, identified by the agency in its evaluation of MBB's technical approach.⁵ MBB Protest at 7-32. Steiner also argues that the agency failed to follow the RFP when assigning the significant weaknesses and weaknesses to the firm's technical approach. Steiner Protest at 53-71. In addition, Steiner argues that the agency ignored the responses it provided in discussions and its final proposal revision (FPR), and identified minor issues that are easily resolved as part of the design process or unwarranted because they conflict with strengths assigned by the agency. *Id.*; Steiner Comments & 3rd Supp. Protest at 23-24. Although we do not address all of the challenges, we have reviewed them all and conclude that none provide a basis to sustain the protest. Below we discuss the challenge regarding a significant weakness the agency assessed to both protesters' proposals.

For the technical approach factor, the RFP required that offerors submit proposed designs for both cutter variants, to include a design narrative and design elements "which demonstrate that the designs are sound and provide basis for the development of the [preliminary, functional, and transitional (production)] designs that will meet the WCC System Specifications." RFP at L-10. Offerors were to address a variety of areas, such as the maturity of the proposed designs, and significant features intended to maximize system performance and minimize lifecycle costs while meeting or exceeding WCC system specifications. *Id.* The RFP elicited design information

⁵ MBB withdrew its initial challenges to another four of the eight weaknesses. MBB Comments & 3rd Supp. Protest at 3 n.4.

regarding speed and endurance requirements, weight estimates, and operational capabilities, as well as specific design elements related to the hull, preliminary allocated baseline weight estimate, structural design, and ship systems (propulsion, electrical, and auxiliary). *Id.* at L-10 to L-16.

The TET employed the following definitions in the evaluation of technical factors:

b. Strength

An element of the proposal, which exceeds a requirement of the solicitation in a way that is beneficial to the Government.

For any requirements that have thresholds or objectives, elements of an Offeror's proposal that appreciably exceed the threshold value but do not meet the objective value may contribute toward an evaluation finding of a strength.

c. Weakness

A flaw in the proposal that increases the risk of unsuccessful contract performance or is easily correctable.

d. Significant Weakness

A flaw in the proposal that substantially increases the risk of unsuccessful contract performance and would require a significant rewrite of the proposal.

AR, Tab B, Source Selection Plan at 31. The record shows that the TET assigned MBB 10 strengths, 8 weaknesses, and 2 significant weaknesses, and overall ratings of marginal and moderate risk. MBB AR, Tab C.1, MBB TET Report at 1-20. The agency assigned Steiner 15 strengths, 6 weaknesses, and 4 significant weaknesses, and overall ratings of marginal and moderate risk. Steiner AR, Tab C.1, Steiner TET Report at 1-22.

Both offerors challenge significant weaknesses identified in their proposals for failing to meet maintenance envelope requirements. Relevant to these allegations, regarding access to equipment and machinery, the WCC specification required that “[m]aintenance envelopes, equivalent or greater than the [original equipment manufacturer (OEM)] recommendations, shall be provided around the equipment,” and specifically that “[a] minimum maintenance envelope of 45 inches shall be provided around sides and free ends of the propulsion engines and ship service generator sets.” RFP, attach. J-1, WCC System Specification at 16.⁶

⁶ The WCC specification document is 453 pages long, however the pages are not sequentially numbered. Citations in this decision are to the Adobe PDF page numbers.

MBB argues that it was unreasonable for the agency to identify a significant weakness in its proposal for an inadequate maintenance envelope because the issue is not significant, and at worst is only a weakness. MBB Protest at 27-28. In this regard, MBB acknowledges its “proposed design included a maintenance envelope of [DELETED] inches of space at the forward end of the generator sets rather than 45 inches.” *Id.* at 27. Instead, MBB contends that its proposal disclosed that the OEM for its generator confirmed that [DELETED] inches would be sufficient to perform required maintenance, thus it satisfied the requirement to provide maintenance envelopes equal to or greater than recommended by the OEM. *Id.* at 29. MBB also argues that redesign work to correct the issue would take no more than one day. See MBB Comments & 3rd Supp. Protest at 12.

The agency argues that the significant weakness is reasonable, and MBB’s contention that it is easily correctable simply reflects MBB’s disagreement. The agency asserts that significant redesign work to correct the issue would result in schedule delay, or if the design is accepted, significant risk of performance degradation due to the limited space for personnel to perform maintenance. MBB COS/MOL at 10-15. USCG further argues that although it raised the issue in discussions, MBB chose to defend its design rather than correct its proposal, and insofar as MBB takes issue with the specification requirement itself, the challenge is untimely. *Id.* at 12-13.

In its evaluation of MBB, the TET identified a significant weakness in MBB’s design finding that it did not demonstrate that “all maintenance, including removal of the alternator, can be performed within the small maintenance envelope provided between the forward compartment bulkhead and the free end of the generator set.” AR, Tab C.1, MBB TET Report at 18. The TET noted that it could not validate the proposal’s claim that [DELETED] inches of space for maintenance was sufficient because it was unknown “what inputs for human factors were applied during removal,” and that “the lack of space may impede the crew’s ability to perform maintenance properly, leading to more costly or time-consuming repairs.” *Id.* Citing to drawings provided by MBB, the TET noted that as a result of other design decisions there was no future redesign available to solve the issue, and if the design were to be accepted, further design work could result in the addition of wiring or piping that would further reduce the space. *Id.* The TET concluded that the proposed maintenance envelope was a flaw that significantly increased the risk of unsuccessful contract performance as a result of the need for redesign work or the negative impact to maintainability. *Id.* Given the RFP’s requirement for a minimum maintenance envelope of 45 inches around the sides and free ends of the equipment, we find the agency reasonably assessed a significant weakness where MBB’s proposal showed only [DELETED] inches of space and did not otherwise demonstrate that the lesser amount of space was sufficient.

The agency also argues, and our review of the record confirms, that the information provided by MBB in its protest to defend the design of the maintenance envelope did

not appear in its FPR.⁷ See Supp. MOL at 14. Rather, in pertinent part, MBB's FPR states: "[DELETED]. [The OEM] confirms that [DELETED] has sufficient clearance [DELETED]." AR, Tab G.1, MBB FPR Technical Approach Narrative at 74. As noted, the TET relied on the drawings submitted with MBB's proposal to identify this significant weakness, rather than rely on MBB's blanket statement of compliance and a statement from the OEM claiming that the space is sufficient. *Dewberry Crawford Group; Partner 4 Recovery*, B-415940.11 *et al.*, July 2, 2018, 2018 CPD ¶ 298 at 13 ("it is the offeror's duty to include sufficiently detailed information to establish that its proposal meets the solicitation requirements, and . . . blanket statements of full compliance are insufficient to fulfill this duty."). MBB has not shown that the agency's reliance on the drawings to identify this significant weakness was improper or unreasonable, and MBB's disagreement with the TET's conclusions is insufficient to show that the significant weakness was unreasonable. *BNL, Inc., supra*.

Steiner also argues that it was unreasonable for the agency to identify a significant weakness in its proposal regarding the maintenance envelope because the agency erroneously assumed that it would not meet these requirements. Steiner Protest at 68-70. Steiner argues that further design improvements will be achieved after award, and the agency's expectation that such level of detail should have been completed for proposal submission was not reasonable. *Id.* at 70.

In its evaluation of the Steiner proposal, the TET concluded that two aspects of the proposed propulsion arrangement would impact the ability of the crew to perform maintenance and may also prove to be safety hazards. Specifically, citing to the machinery arrangement drawing provided by Steiner, the TET found that there was insufficient overhead space above the engines, only [DELETED] inches between the top of the engines and the deck above, and that the space could potentially be reduced in later design phases if needed for piping, wiring, exhaust, or insulation. AR, Tab C.1, Steiner TET Report at 21. The agency explained, in pertinent part, as follows:

There is significant work that the crew must frequently perform to properly maintain the engines. This work includes inspections, measurements, and maintenance items either on top of the engines or accessed through the top of the engine. Therefore, it is important for the crew to have proper space above the engine to perform this work not only for physical and visual access, but to permit removing large components of the engine as well. Many pieces of the engines, such as the aftercooler, are extremely heavy and require pulleys, known as chain falls, to safely remove them. The rigging of chain falls involves a padeye and the chain fall itself, requiring ample space to get a vertical run from equipment lifting points.

⁷ In its protest, MBB quotes language that it purports is included in its technical approach volume, and includes as protest exhibit F a letter from the OEM to provide further explanation of the sufficiency of the proposed maintenance envelope. Protest at 29 and Exhibit F. Neither the language quoted in the protest nor the OEM letter are present in MBB's FPR.

The constraints due to the propulsion arrangement and overhead above the engine likely preclude safe and effective fastener removal, chain fall set up and engine part removal. . . .

It is unclear from the proposal that the overhead space proposed is sufficient to permit safe and effective engine maintenance. Proposing an arrangement that makes maintenance very difficult on the engine increases risk that maintenance either will not be done effectively or that some procedures may not be capable of being done at all. The propulsion engines are critical pieces of equipment on the WCC, and this provided the basis for the specification to ensure all OEM maintenance envelopes, including vertical, are adhered to.

Id. at 21-22. The TET also concluded that the proposed propulsion configuration showed that the placement of the exhaust piping severely impinged upon the ability to perform engine maintenance, and presented a safety hazard unless removed during maintenance, which would correspondingly increase the effort to perform preventative and corrective maintenance. *Id.* at 22 (“If the starboard generator is running, this exhaust piping, even with insulation as shown, may be very hot. The current design would force the crew to either touch this piping or use it as leverage to access the engine behind it, posing a potential safety hazard to the crew.”).

The agency argues that finding this significant weakness in Steiner’s proposal was reasonable. Steiner COS/MOL at 26-30. In response, Steiner cites to its proposal narrative, which it argues unequivocally states: “The maintenance envelope around the machinery is [DELETED] inches which also allows easy access to remove/replace equipment.” Steiner Comments & 3rd Supp. Protest at 34-35; see Tab H.1, Steiner FPR Technical Narrative at 86-87.

However, as noted above, it is well-settled that it is the offeror’s duty to include sufficiently detailed information to establish that its proposal meets the solicitation requirements, and that blanket statements of full compliance are insufficient to fulfill this duty. See *Dewberry Crawford Group; Partner 4 Recovery, supra*. As discussed, the record shows that the agency identified this weakness based on its review of the machinery arrangement drawing Steiner submitted with its proposal. Steiner has offered nothing to demonstrate that the agency’s conclusions were erroneous, and its disagreement with the TET’s conclusions is insufficient to show that the significant weakness was unreasonable. *BNL, Inc., supra*.

Further, with respect to Steiner’s argument that the agency ignored the responses it provided in discussions and its FPR, the agency argues that Steiner sought to circumvent the RFP’s page limitation for technical proposals by providing an appendix to its proposal that included all correspondence exchanged with the agency in its

discussions, and even included additional information not shared in discussions.⁸ Steiner COS/MOL at 16-17. Specifically, the agency explains that it considered only the first 11 pages of the appendix since the RFP limited the technical approach proposal volume to 130 pages, and Steiner's FPR technical approach volume was 119 pages. *Id.* at 17. In this regard, the record shows that the agency increased the page limits permitted for the non-price proposal volumes during the course of discussions, specifically increasing the page limit for the technical approach volume from 100 to 130 pages, and stated that "[p]ages beyond the total page count limit may not be evaluated." RFP at L-7; AR, Tab A.2, RFP amend. 5 at L-7. Offerors were further instructed as follows:

Previously submitted e-mail correspondence and responses received prior to the closing of discussions will not be considered in the subsequent evaluation of your FPR. Therefore, any changes to your proposal to address issues raised in discussions must be included in your FPR in order for the Government to consider and evaluate those changes.

Steiner AR, Tab G.4, Steiner Letter Closing Discussions at 1.

Nonetheless, Steiner challenges the agency's evaluation based on information that the agency found to be outside of the 130-page limit. For example, regarding a weakness assessed for omitting data related to the [DELETED], Steiner argues that "because the Agency improperly refused to consider that portion of Steiner's proposal, the record does not include the pages of Steiner's proposal that would demonstrate its compliance with the Solicitation requirements." Steiner Comments & 3rd Supp. Protest at 43; see *also id.* at 42 (stating the same related to a weakness for errors in Steiner's [DELETED] for each variant).

We find the agency's actions not to consider information that was included in parts of Steiner's FPR that were beyond the page limit to be reasonable. An offeror has a responsibility to submit a well-written proposal with adequately detailed information that demonstrates compliance with all solicitation criteria and allows for meaningful review by the agency. *EMTA Insaat Taahhut Ve Ticaret, A.S.*, B-416391, B-416391.4, Aug. 13, 2018, 2018 CPD ¶ 280 at 4. To the extent the weaknesses and significant weaknesses identified in Steiner's technical approach are the result of its failure to update its FPR within the 130-page limit to reflect the responses provided in discussions, even assuming those responses were sufficient to resolve the agency's concerns, Steiner has not demonstrated that the agency's evaluation was unreasonable. On this record, we find the evaluation was reasonable, and deny these protest allegations.

⁸ In Appendix N of its FPR, Steiner stated that it provided some updates to the initial response to discussions, indicated by a notation of "subsequent response," and that other responses remained unchanged as submitted to the government. Steiner AR, Tab H.6, Steiner FPR Appendix N Accepted Pages at 1.

Unequal Treatment

Both protesters allege that the agency engaged in a disparate evaluation of proposals that favored the awardee. It is a fundamental principle of government procurement that agencies must treat offerors equally, which means, among other things, that they must evaluate proposals in an even-handed manner. *STG, LLC*, B-418490, B-418490.2, May 19, 2020, 2020 CPD ¶ 179 at 9. Where a protester alleges unequal treatment in an evaluation, we will review the record to determine whether the differences in ratings reasonably stem from differences in the proposals. *Amentum Servs., Inc.*, B-419998, B-419998.2, Oct. 22, 2021, 2021 CPD ¶ 371 at 11.

Further, in reviewing an agency's evaluation, our Office will not limit its review to contemporaneously documented evidence, but instead will consider all the information provided, including a party's arguments and explanations. *Serco, Inc.*, B-406683, B-406683.2, Aug. 3, 2012, 2012 CPD ¶ 216 at 7. While we generally give little or no weight to reevaluations and judgments prepared in the heat of the adversarial process, post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details, will generally be considered in our review as long as those explanations are credible and consistent with the contemporaneous record. *Epsilon, Inc.*, B-419278, B-419278.2, Feb. 2, 2021, 2021 CPD ¶ 71 at 4. For all of the challenges raised, we conclude that USCG has provided reasonable explanations demonstrating that the differences in the evaluators' findings were based on meaningful differences between the proposals. Below we discuss a representative sample of these challenges.

Misaligned Stanchions

Both protesters argue that the agency unequally evaluated proposals as related to misaligned stanchions in the offerors' proposed designs. The agency explains: "A stanchion, in this context, is a load-bearing support." Steiner COS/MOL at 17 n.7. Related to these allegations, section 100.2.8 of the WCC specification stated: "Discontinuities and abrupt changes in direction of load bearing structure shall be avoided." RFP, attach. J-1, WCC Specification at 43.

Steiner first challenges a significant weakness assigned by the agency related to structural discontinuities and stanchion alignment in its design. Steiner Protest at 61-63. Steiner argues that it is impossible that all stanchions will be aligned, and additional analysis may be required in the design process, but "[t]he eccentricity of load is a minor detail in ship design," and the significant weakness conflicts with strengths assigned by the TET, such as for its stateroom design and crew accommodations, that are the direct result of its design optimization. *Id.* at 62-63.

Regarding Steiner's design, the significant weakness found by the TET stated, in pertinent part: "[DELETED]." AR, Tab C.1, Steiner TET Report at 17-18. The TET summarized the significant weakness as follows:

There is a significant weakness in the structural design of the proposed cutters and the reporting of Finite Element Analysis (FEA) calculations. The stanchions within the cutter variants are not [DELETED], which greatly complicates how loads are transferred through the hull. In order to get [American Bureau of Shipping (ABS)] approval for the design, the Offeror would need to provide calculation results from FEA. The FEA report included with the proposal is poorly presented, making the conditions and model details difficult to verify. If there are considerable issues with the Offeror's ability to perform FEA calculations and communicate those results, there is substantial risk of schedule delay, cost increase, and performance degradation. If the FEA calculations fail, schedule delays and cost increase will be realized instantaneously in the design phase, as significant redesign will be needed.

Id. at 5. The TET Chair further explains:

While the specification in the RFP does state that discontinuities in structural members are to be avoided, a certain level of misalignment is expected when the designer performs tradeoffs in general arrangement and structural design. Any stanchion misalignment presented in the design needs to be verified through calculations proving that loading from above is included to ensure the vessel structure is adequately supported throughout. Steiner, in its proposal, does not provide any calculations or evidence that the stanchion alignment will meet ABS class rules. . . . Weight from the superstructure along all of these misaligned stanchions is thoroughly absent throughout the entire proposal.

Steiner Supp. MOL, attach.1, TET Chair Decl. at 4.

The agency argues that Steiner's misaligned stanchions were properly evaluated. Specifically, the agency argues that strengths assigned for stateroom design and crew accommodations have no relation to the issue, even if those strengths were the result of design choices Steiner made that led to the misaligned stanchions. Steiner COS/MOL at 17-20. Based on our review of the record, we find the agency reasonably assigned a significant weakness to Steiner's proposal for the misaligned stanchions. The record shows that Steiner's drawings identified stanchions that were not aligned and failed to provide any additional information--*e.g.*, calculations regarding load support--to substantiate the acceptability of its design. We further agree with the agency that the strengths assigned to other aspects of Steiner's proposal are not relevant to this significant weakness, as Steiner was still required to provide a design that met the solicitation requirement to avoid discontinuities and abrupt changes in direction of load bearing structures.

Both protesters also argue that the agency ignored misaligned stanchions in Birdon's design, and should have also assigned a significant weakness to Birdon's proposal.

Steiner Comments & 3rd Supp. Protest at 26-28; MBB Comments & 3rd Supp. Protest at 22-27. According to MBB, “Birdon should have been assessed a weakness related to lack of structural alignment in a similar manner.”⁹ MBB Comments & 3rd Supp. Protest at 26. To support this allegation, MBB provides a declaration from its consultant who identifies drawings in Birdon’s proposal that illustrate misaligned stanchions. *Id.*, exh. A, Consultant Decl. at 6 (¶ 22).

The agency argues that although all of the proposals included misaligned stanchions in the designs, Birdon’s included mature calculations regarding load transference to substantiate its design, while Steiner’s and MBB’s proposals did not. MBB Supp. MOL at 10-11; Steiner Supp. MOL at 11-13; *see id.*, attach. 1, TET Chair Decl. at 5-7 (providing calculations submitted by Birdon in its proposal to demonstrate consideration of misaligned stanchions and the impact to load). As noted above, the record shows that the significant weakness in Steiner’s proposal was not assigned simply because the stanchions were misaligned, but because Steiner’s proposal “d[id] not provide any calculations or evidence that the stanchion alignment will meet ABS class rules.” Steiner Supp. MOL, attach.1, TET Chair Decl. at 4. Thus, the difference in the evaluation was a result of a difference in the proposals, namely that Birdon provided supporting calculations to substantiate the acceptability of misaligned stanchions in its design.

As to MBB, the record again shows that the weakness assigned to MBB’s proposal related not simply to misalignment, rather, that “[t]here are several areas where the Government cannot properly evaluate the structural calculations due to inconsistencies or omissions in the WLR and WLIC structural calculations or structural drawings.” AR, Tab C.1, MBB TET Report at 15. As was the case with Steiner, the agency argues that Birdon’s proposal provided structural calculations to substantiate its design, and MBB’s did not. MBB Supp. MOL at 9-10; *see id.*, attach. 1, TET Chair Decl. at 7 (“The calculations for Birdon are very clear as to which stanchions they are referring to, showing transverse position, longitudinal frame and general context of the stanchion. By contrast, the calculations given by [MBB] are convoluted and do not clearly show which stanchions are being considered and that load from stanchions above are considered in calculations for stanchions below.”). On this record, we find that the agency’s evaluation stemmed from differences in the proposals, rather than unequal treatment. These allegations are denied.

Repair Locker

The protesters also argue that multiple strengths were unequally identified in Birdon’s proposal for which they did not receive credit, despite also proposing to exceed WCC

⁹ MBB initially challenged a weakness identified in its proposal for providing drawings that depict stanchions with no direct support beneath them, nor any explanation about the load transference into the scantlings that run beneath them. *See* MBB Protest at 21-24. However, MBB subsequently withdrew this allegation. MBB Comments & 3rd Supp. Protest at 3 n.4.

specifications in the same way. For example, both protesters argue that the agency unequally assigned a strength to the Birdon proposal for proposing a repair locker that exceeds RFP size requirements, while their proposed repair lockers also exceeded the requirement, but were not identified as strengths. MBB Comments & 3rd Supp. Protest at 21-22; Steiner Comments & 3rd Supp. Protest at 46-48.

Section 664.1 of the WCC specification required that a repair locker be provided, with a minimum gross deck area of 45 square feet (sq. ft.) that provided stowage for damage control equipment listed therein. RFP, attach. J-1, WCC Specification at 427.

Regarding Birdon's proposal, the TET identified the following strength:

The proposal provides a repair locker of [DELETED] [sq. ft.] . . . which exceeds the RFP requirement. In addition, there is extra damage control storage areas accessible from the Repair Locker [DELETED]. . . .

The Repair Locker is a critical compartment during emergency response, serving as the hub for equipment distribution, communications and command control. The extra space provides the crew more room to stow damage control equipment and allows more space for organizing the response to damage control scenarios, thus increasing crew safety and survivability.

This feature mitigates risk of cutter performance degradation as the extra space assists in efficient damage control operations. This element exceeds a requirement of the specification in a way that is a benefit to the Government since it provides operational flexibility for the crew during emergencies.

AR, Tab C.4, Birdon TET Report at 15.

MBB argues that its proposed repair locker area was [DELETED] sq. ft., exceeding the requirement, and that the locker was located "[DELETED] . . . providing easy access for [DELETED] equipment to these areas of high risk," and thus should have been identified as a strength because it provided the same benefit as Birdon. MBB Comments & 3rd Supp. Protest at 21-22. The agency first emphasizes that MBB and Birdon submitted distinctly different designs, and strengths and weaknesses were assigned consistent with the definitions employed by the evaluators. MBB Supp. MOL at 2-3. The agency further argues that rather than disparate treatment, the differences in the evaluation result from differences in the proposals. *Id.*

The agency argues that MBB was fairly evaluated regarding the proposed repair locker area because Birdon proposed a repair locker with a gross deck area of [DELETED] sq. ft., exceeding the RFP requirement, and which furthermore provided access to additional damage control storage areas. MBB Supp. MOL at 6-7. The agency argues that these two features were far more significant and different than the [DELETED] sq. ft. locker MBB proposed, and provided greater benefit to the government such that they

collectively merited the strength. *Id.* The TET Chair further explains that the TET did not identify a strength because the [DELETED] sq. ft. by which MBB exceeded the requirements did not provide a benefit to the government:

The purpose of the repair locker is to store equipment in case of emergency and to provide easy access in and out of the space. The area taken by the [DELETED] width interior door in swinging from closed to 90 degrees is approximately [DELETED] [sq. ft.], which decreases the extra [sq. ft. MBB] is proposing to approximately [DELETED] [sq. ft.]

Damage Control equipment is very large and heavy, such as portable eductors and submersible pumps. Having an extra [DELETED] [sq. ft.] in the space may help to stow smaller pieces of equipment, but the utility is lost when attempting to stow larger items. The TET assessed that the extra space was adequate to meet requirements and the extra space did not provide a benefit to the Government.

Id., attach. 1, TET Chair Decl. at 4.

Steiner also argues that the agency should have identified as a strength that it proposed a repair locker area of [DELETED] sq. ft. Steiner Comments & 3rd Supp. Protest at 46-48. The agency argues that although Steiner's proposed locker area exceeds the specification, it is collocated with many other pieces of equipment unrelated to how USCG conducts damage control operations, which did not account for the purpose of the repair locker in an emergency response. Steiner Supp. MOL at 15-18; *see also id.*, attach. 1, TET Chair Decl. at 7 (explaining that although Steiner's repair locker included equipment required by the specification to be there, Steiner also included "[DELETED].").

On this record, we find the agency's explanations are reasonable, and find no basis to conclude that the evaluation was disparate. As noted, the agency defined a strength as an element of the proposal which exceeds a requirement of the solicitation in a way that is beneficial to the government. The agency has reasonably explained that Birdon was assigned a strength for its repair locker area because it not only exceeded the solicitation requirements but also provided a benefit that neither MBB's nor Steiner's proposals offered. *Amentum Servs., Inc., supra*. Accordingly, these allegations are denied.

Sewage and Gray Water Tank

As another example, both protesters argue that the agency unequally assigned a strength only to Birdon for exceeding RFP specifications regarding the sewage and gray

water tank holding capacity, even though both also proposed to do the same. MBB Comments & 3rd Supp. Protest at 16-17; Steiner 2nd Supp. Protest at 12-14.

Here, section 593.2.5.1 of the WCC specification states that the sewage holding tank shall be sized to hold sewage based on a total sewage and graywater generation rate of 53 gallons/accommodation/day. RFP, attach. J-1, WCC Specification at 361. Further, sections 070.3.7.1 and 070.3.8.1 state that the cutter and cutter systems should “provide accommodations and habitability support for 17 crew (threshold) / 19 crew (objective),” and cutter endurance should be 11 days. For an objective accommodation of 19 persons, this amounts to 11,077 gallons of capacity required.¹⁰ *Id.* at 9.

In its evaluation of Birdon’s proposal, the TET identified the following strength:

The proposed design, which meets the objective accommodation of 19 crew members. . . offers to exceed the sewage/gray water holding capability with 12,460 [gallons], a 12.5% increase above the requirement for the objective accommodation. . . .

This is a benefit to the Coast Guard because it increases the length a cutter can be underway without need to offload grey water and sewage. By ensuring there is a greater allowance for grey water and sewage, it is possible for the ship to stay underway longer, increasing operational flexibility.

This element exceeds a requirement of the solicitation in a way that is beneficial to the Government. This element does not increase risk to degradation of cutter performance.

AR, Tab C.4, Birdon TET Report at 7-8.

MBB argues that it should have received a similar strength because it proposed a sewage/gray water holding capacity of [DELETED] gallons, which also exceeds the minimum objective requirement of 11,077 gallons. MBB Comments & 3rd Supp. Protest at 17. The agency argues that the TET did not find a strength for MBB’s sewage/gray water capacity because its proposal otherwise included flaws regarding its endurance calculations. MBB Supp. MOL at 4-5. In this regard, the RFP required that offerors provide design elements to include drawings, calculations, and analyses, to “demonstrate that the proposed design is sound, convergent, balanced, internally consistent, accurate, feasible, and meets or exceeds the requirements of this RFP.” RFP at L-12. The RFP specifically stated the following with regard to endurance:

Describe how the proposed design meets the required capacities for fuel, potable water, sewage, and food stowage. Discussion shall demonstrate a clear understanding of the fuel endurance requirements of the

¹⁰ 53 gallons/day/accommodation * 19 accommodations * 11 days = 11,077 gallons.

propulsion engines and electrical plants for each variant. Include with the discussion, fuel, potable water, sewage, and food stowage calculations required for the endurance days and accommodations.

Id. at L-14.

The record shows that the TET identified a weakness for MBB's endurance fuel calculations, specifically listing a number of errors and miscalculations that it stated did not demonstrate an understanding of the requirements.¹¹ AR, Tab C.1, MBB TET Report at 13. In pertinent part, the TET concluded:

This element is a flaw in the proposal that increases the risk of unsuccessful contract performance. This increases risk of performance degradation as accurate fuel consumption estimates are not fully understood nor can be evaluated. Resizing fuel tanks as proposed would likely not require changing structural design nor any work outside normal efforts in design phases but would require resolution – the ultimate effects of which are unknown.

Id. The agency argues that this weakness undercuts any benefit that could have been provided for exceeding the sewage/gray water tank sizing because it is not otherwise clear that the larger sewage/gray water tank will permit additional time for the cutters to be underway in light of the flawed endurance fuel calculations. MBB Supp. MOL at 5. USCG argues that Birdon's proposal was credited with a strength for larger sewage/gray water tanks because its other endurance calculations met or exceeded the requirements. *Id.*

Steiner argues that it should have received a strength because it proposed a tank size of [DELETED] gallons for the WLR variant and [DELETED] for the WLIC variant. Steiner 2nd Supp. Protest at 13. The agency argues that Steiner was also fairly evaluated regarding its sewage/gray water tank sizing because its proposal did not scale all required features in accordance with the RFP. Specifically, the agency argues that Steiner did not include [DELETED] that would permit additional time between ports of call, thus it did not exceed the requirement in a way that was beneficial to the government. Steiner Supp. MOL at 9.

On this record, we find the agency's evaluation to be reasonable. The agency has provided a credible explanation for its decision not to identify the size of the protesters' proposed sewage/gray water tanks as strengths even though they exceeded the objective minimum number of gallons. In each instance, the TET concluded that the excess capacity provided by the protesters did not offer a benefit in the manner that USCG anticipated Birdon's design would. Accordingly, we deny these allegations.

¹¹ MBB also initially challenged the agency's identification of this weakness, but subsequently withdrew the allegation. MBB Comments & 3rd Supp. Protest at 3 n.4.

Price Reasonableness

The protesters also argue that the agency failed to perform a proper price reasonableness analysis. Specifically, MBB argues that the agency failed to evaluate proposed prices against the IGCE in contravention of the RFP, and failed to actually compare prices, instead relying solely on the fact that a competition had occurred to conclude the prices were reasonable. MBB Protest at 33-35. Steiner also raises these challenges, and further argues that Birdon's price should have been rejected as unreasonably high because Birdon's proposed price is 32 percent higher than Steiner's, and 15 percent higher than the average of all proposed prices. Steiner 2nd Supp. Protest at 20-25. The agency argues that it performed a proper price analysis, and correctly concluded all offerors' prices were reasonable. MBB COS/MOL at 41-43; Steiner Supp. MOL at 29-34.

Procuring agencies must condition the award of a contract upon a finding that the contract contains "fair and reasonable prices." FAR 15.402(a), 15.404-1(a); see *Crawford RealStreet Joint Venture*, B-415193.2, B-415193.3, Apr. 2, 2018, 2018 CPD ¶ 121 at 9. The purpose of a price reasonableness analysis is to ensure that the government does not pay too high a price for a contract or task order. FAR 15.404-1(b); *Crawford RealStreet Joint Venture*, *supra*. Further, an agency in performing a price reasonableness evaluation should consider price relative to the particular approach taken by the offeror. *TMG Servs., Inc.*, B-410929, B-410929.2, Mar. 25, 2015, 2015 CPD ¶ 121 at 7. The manner and depth of an agency's price analysis is a matter committed to the discretion of the agency, which we will not disturb provided that it is reasonable and consistent with the solicitation's evaluation criteria and applicable procurement statutes and regulations. *TransAtlantic Lines, LLC*, B-411846.3, B-411846.4, May 18, 2016, 2016 CPD ¶ 148 at 7; *Federal Acquisition Servs. Alliant JV, LLC*, B-415406.2, B-415406.3, Apr. 11, 2018, 2018 CPD ¶ 139 at 11.

The FAR includes a non-exhaustive list of permitted price analysis techniques that ensure that the agency pays a fair and reasonable price, including, as relevant here: (1) comparison of prices received, (2) comparison of prices received to historical prices, and (3) comparison of prices received to an IGCE. FAR 15.404-1(b)(2). The FAR states that "[t]he first two techniques at 15.404-1(b)(2) [comparison of prices received, and comparison to historical prices] are the preferred techniques," but also states that "if the contracting officer determines that information on competitive proposed prices or previous contract prices is not available or is insufficient to determine that the price is fair and reasonable, the contracting officer may use any of the remaining techniques as appropriate to the circumstances applicable to the acquisition." *Id.* at (b)(3).

As noted, the RFP stated that the government would perform a price analysis using the techniques in FAR sections 15.305(a)(1) and 15.404-1, as applicable, and compare the total price proposed by an offeror against competing proposals and the IGCE to determine whether the prices were fair and reasonable. RFP at M-8. The record shows that the IGCE was \$900,000,000, however, the agency deemed the IGCE to be unreliable for two reasons: (1) The IGCE was approved in March 2020, and did not

include increased prices in the shipbuilding industry and for support services as a result of the COVID-19 pandemic; and (2) portions of the program life cycle cost estimate did not reflect the means by which the cutters would be designed, for example, design and engineering estimates were prepared using 2D renderings of the proposed design whereas all offerors' proposals included some form of more costly 3D modeling. AR, Tab C.3, PET Report at 3. Accordingly, the PET relied primarily on the competition of the five proposals and comparisons of the offerors' prices to the offeror average. *Id.*

The PET compared total evaluated prices to the offeror average, \$1,031,729,174, and concluded that proposed pricing was relatively consistent. *Id.* at 4. The PET recognized that Birdon was 15 percent above, MBB was 10 percent below, and Steiner was 13 percent below the offeror average. *Id.* In addition to comparing total evaluated prices, the PET considered the offerors' proposed escalation for pricing elements that accounted for approximately 90 percent of total evaluated prices, and examined prices by ordering period to confirm that "pricing for each proposal follows a similar curve over the course of the potential contract period." *Id.* at 4-5. The PET additionally examined prices by cost elements, comparing pricing to the offeror average in elements such as design and engineering, production and classing, raw materials, equipment, data rights, and warranty pricing. See *id.*, Appendix A.

On this record, we agree with the agency that its price analysis was reasonable. As discussed, the agency received five proposals, of which Birdon's proposed price was the highest, and the protesters' prices were the lowest. Our review of the record shows that the agency performed comparisons by cost element and ordering period, assessed trends and noted categorical differences in pricing, however, finding generally that all prices were reasonably within 15 percent of the mean. Since the agency's technical evaluation concluded that Birdon's proposal was technically superior to the other proposals submitted, we find no basis to question the conclusion that its price was reasonable simply because it was the highest price submitted and 15 percent above the offeror average. *TMG Servs., Inc., supra.*

We further find no basis to question the explanation provided for the PET's decision not to compare prices to the IGCE. In this regard, we find reasonable the agency's explanation for why it concluded that the IGCE did not provide a reliable estimate of the costs of the procurement. Moreover, the FAR does not require the use of an IGCE in evaluating price; as noted above, the FAR includes a non-exhaustive list of permitted price analysis techniques. FAR 15.404-1. On this record, we find no basis to question the agency's discretion in deciding not to use the IGCE in its price reasonableness analysis. These allegations are denied.

Best-Value Tradeoff

Finally, both protesters challenge the selection of Birdon as presenting the best value to the government. The protesters argue the selection is based on flawed underlying evaluation conclusions, that the SSA failed to reasonably consider the relative merits of competing proposals in the tradeoff decision, and irrationally concluded that Birdon's

proposal was worth its substantial price premium. MBB Protest at 35-37; MBB Supp. Protest at 17; Steiner Protest at 95-97; Steiner 2nd Supp. Protest at 40-43.

As a general matter, source selection officials enjoy broad discretion in making tradeoffs between the comparative merits of competing proposals in a best-value evaluation scheme; such tradeoffs are governed only by the test of rationality and consistency with the solicitation's evaluation criteria. *Primary Care Sols., Inc.*, B-418799.3, B-418799.4, Sept. 8, 2021, 2021 CPD ¶ 314 at 9; *Qwest Gov't Servs., Inc. d/b/a Centurylink QGS*, B-416658.4, B-416658.5, June 17, 2019, 2019 CPD ¶ 220 at 12.

Here, as noted, the RFP indicated that the evaluation factors were listed in descending order of importance, and stated that all non-price factors, when combined, were significantly more important than price. RFP at M-3. The RFP stated:

Prospective Offerors are advised that proposals with the lowest price may not be chosen for award if a higher priced proposal is determined, by evaluation of the proposals according to the established evaluation factors, to be more advantageous to the Government. In such case, the superiority of the successful Offeror in areas other than price may justify the added expenditure.

Id. at M-2.

The record shows that the SSA reviewed and considered the SSEB report (which included the TET, PPET, and PET reports) and the SSAC's recommendation, and was briefed by the SSAC Chair. MBB AR, Tab E, SSDD at 1. The SSA states that he oversaw the acquisition and concluded that the evaluations were conducted with consistency and based on the RFP's evaluation factors. *Id.* The SSA concurred with the evaluation findings, and agreed with the reasoning present in the SSAC's recommendation. *Id.*

As noted, Birdon's proposal was rated as superior and low risk under the technical approach and system design and production capability factors, the two most heavily weighted factors, as good and low risk under the management approach factor, and as satisfactory confidence under the past performance factor. MBB AR, Tab C, SSEB Report at 4. The SSAC noted that overall, Birdon's proposal was assigned 24 strengths and 4 weaknesses.¹² MBB AR, Tab D, SSAC Recommendation at 7. The SSAC found that Birdon's proposed designs "presented a holistic approach and reflect forethought regarding the sustainment of the vessels as reflected in several Strengths," and "have the lightest structural weights of the designs being considered while still meeting or exceeding all design criteria." *Id.* The SSAC specifically noted strengths related to

¹² The record shows that Birdon actually received 28 strengths: 24 under the technical approach factor (and 4 weaknesses), 3 under the system design and production capability factor, and 1 under the management approach factor. See AR, Tab C.4, Birdon TET Report.

maximizing the commonality of deck equipment on both cutter variants, and for simplified removal routes for main propulsion engines, generators, and Z-drives. *Id.* The SSAC also concluded that all four weaknesses either presented minor risks that were easily correctible or issues common to all proposals that the government expected to be resolved during the design phase. *Id.* at 8.

Regarding Steiner, the SSAC concluded that the proposal would not provide the best value to the government even though it offered the lowest price. Specifically, the SSAC found that Steiner's designs included significant flaws, most concerning of which were the proposed engine removal routes and maintenance spaces around the engines, which would result in increased efforts in the design phase of the contract if its proposal were to be accepted. Steiner AR, Tab E, SSAC Recommendation at 18.

Regarding MBB, the SSAC also concluded that the proposal was not the best value although it offered the second lowest price. Here, the SSAC noted that MBB's designs complied with WCC specifications "by a margin that threatens the ability of the ships to meet [key performance parameters] if design changes occur through the design phase." MBB AR, Tab D, SSAC Recommendation at 18. In particular, the SSAC noted that the proposal did not include the required clearance to perform maintenance tasks, and included "larger, heavier equipment, which then requires additional fuel, storage, and related ancillary maintenance." *Id.*

Overall, concluding that Birdon's proposal presented the best value to the government, the SSA stated as follows:

Underlying Birdon America's proposal ratings are many significant benefits such as the maturity of the design, multiple Strengths demonstrating attention to supportability and maintainability including an extended warranty on each cutter built, a quality assurance certification that will reduce risk of counterfeit parts being acquired during production, and a proposed schedule and staffing that appropriately considered the Government review and approval effort within the design process. These features and the many others are unmatched in any of the technical evaluation factors by any of the competing proposals. The benefits within [Birdon] America's proposal represent significant value to the Coast Guard and warrant paying the higher price.

MBB AR, Tab E, SSDD at 4.

Because we have denied the protester's challenges to the evaluation of proposals, we find no merit to the protester's challenges to the selection decision. Based on our review of the record, the agency performed an evaluation that was reasonable and consistent with the RFP's stated evaluation factors. Accordingly, we find no basis to question the selection decision.

The protests are denied.

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General Counsel