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Decision

Matter of: Amaze Technologies, LLC

File: B-421002.2; B-421002.3; B-421002.4

Date: May 8, 2023

W. Brad English, Esq., Jon D. Levin, Esq., Emily J. Chancey, Esq., and Nicholas P. Greer, Esq., Maynard, Cooper & Gale, P.C., for the protester.
Robert K. Tompkins, Esq., Hillary J. Freund, Esq., Kelsey M. Hayes, Esq., and Richard Ariel, Esq., Holland & Knight LLP, for STS Systems Support, LLC, the intervenor.
Major Ashley M. Ruhe, Colonel Frank Yoon, Lieutenant Colonel Keric Clanahan, and Kent H. Grubb, Esq., Department of the Air Force, for the agency.
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency reasonably determined that protester's proposed compensation for professional employees was unrealistic based on a comparison of protester's proposed wage rates to the agency's market research regarding rates for similar services.
 2. Agency reasonably determined that awardee's price was reasonable based on a comparison of awardee's proposed price to market prices for similar services.
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DECISION

Amaze Technologies, LLC, of Fairfax, Virginia, protests the Department of the Air Force's issuance of a task order to STS Systems Support, LLC, of San Antonio, Texas, pursuant to fair opportunity proposal request (FOPR) No. FA877321R8002,¹ to provide information technology (IT) support services for the agency's cyber defense operations. Agency Report (AR), Tab 5, Initial FOPR at 1.² Amaze challenges the agency's determination that Amaze's proposed compensation for professional personnel was

¹ The protest inaccurately identifies the solicitation number as FA877321R0008. Protest at 1.

² Page number citations in this decision refer to the Adobe PDF page numbers in the documents submitted.

unrealistic; determination that STS's proposed price was reasonable; and evaluation of Amaze's and STS's technical proposals.

We deny the protest.

BACKGROUND

On January 25, 2021, pursuant to the procedures in Federal Acquisition Regulation (FAR) subpart 16.5, the agency issued the FOPR to small business 8(a) firms holding General Services Administration (GSA) One Acquisition Solution for Integrated Services (OASIS) contracts. The solicitation provided that the successful vendor will provide support to the Air Force with regard to "monitoring host computer and network activity to detect, identify, contain and respond to anomalous, suspicious and/or malicious events on the [Air Force's] and supported unified commands' systems and networks." *Id.* at 20. The agency states that this procurement is a "follow-on requirement for what was formerly known as Defense Cyber Operations Missions (DCO Mission) and is now known as Defense Cyber Operation Hunt and Clear (DCO HAC)," adding that the requirements have "significantly evolved." AR, Tab 1, Contracting Officer's Statement at 2-3.

As amended, the solicitation contemplated award of a fixed-price level-of-effort task order; identified various labor categories, along with estimated levels of effort, that would be required for task order performance;³ provided that the source selection decision would be based on a best-value tradeoff between two evaluation factors-- technical⁴ and price⁵; and provided instructions to vendors regarding their submission of separate technical and price proposals. AR, Tab 11, FOPR amend. 6 at 1; Tab 5, Initial FOPR at 3-10, 58-59.

With regard to technical proposals, each vendor was directed to submit a labor matrix identifying the OASIS labor categories that corresponded to the labor categories identified in the solicitation and to "include a clear and comprehensive description of the staffing approach to meet the DCO HAC requirements consistent with the Technical Labor Matrix." AR, Tab 5, Initial FOPR at 3, 67-70.

³ Of particular relevance to this protest, the solicitation's performance work statement (PWS) identified multiple labor categories that the agency refers to as "cyber" categories, including forensic malware analyst, incident response operator, defensive counter-cyber; cyber threat emulation and analysis analyst; systems security engineer; and emerging threats analyst. AR, Tab 5, Initial FOPR at 29-50.

⁴ The solicitation established the following three technical subfactors: scenarios; experience; and staffing approach.

⁵ With regard to price, the solicitation provided that proposals would be evaluated for completeness, reasonableness, unbalanced pricing and, as discussed in more detail below, the realism of a vendor's proposed levels of compensation for professional employees. AR, Tab 11, FOPR amend. 6 at 6-10.

With regard to price proposals, the solicitation incorporated FAR provision 52.222-46, Evaluation of Compensation for Professional Employees, which states:

As part of their proposals, offerors will submit a total compensation plan setting forth the salaries and fringe benefits proposed for the professional employees who will work under the contract. The Government will evaluate the plan to assure that it reflects a sound management approach and understanding of the contract requirements. This evaluation will include an assessment of the offerors ability to provide uninterrupted high-quality work. The professional compensation proposed will be considered in terms of its impact upon recruiting and retention, its realism, and its consistency with a total plan for compensation

* * * * *

[P]roposals envisioning compensation levels lower than those of predecessor contractors for the same work will be evaluated on the basis of maintaining program continuity, uninterrupted high-quality work, and availability of required competent professional service employees.

FAR provision 52.222-46(a), (b); see AR, Tab 5, Initial FOPR at 15.

In this context, vendors were required to: submit “base (raw) hourly rates” and “fringe percentage rates” for each labor category identified in the solicitation; provide support for the wage rates they proposed;⁶ “map proposed offeror labor categories . . . to the corresponding Government labor category”; and “map salary support documentation to each proposed labor category.” AR, Tab 11, FOPR amend. 6 at 9. Consistent with the provisions of FAR 52.222-46, the solicitation warned vendors that:

Failure to demonstrate a realistic Professional Compensation Plan may render a proposal ineligible for award on the basis that the offeror does not understand the requirement or proposed unrealistically low professional employee compensation. The government will consider the risk associated

⁶ Specifically, the solicitation stated: “Offeror shall provide salary support data from recent surveys and/or studies from professional, public, and private organizations (e.g., Watson & Wyatt, Economic Research Institute, Bureau of Labor Statistics, etc.) used to support the proposed compensation.” Tab 11, FOPR amend. 6 at 9.

with any unrealistically low professional employee salaries as it may impair the offeror's ability to attract and retain competent professional employees.

Id. at 16.

Following issuance of the initial FOPR in January 2021, the solicitation was amended several times; proposals were submitted; and various protests were filed and resolved by our Office.⁷ AR, Tab 1, Contracting Officer's Statement at 2-3; Tab 28, First Fair Opportunity Decision Document (FODD) at 1-2.

In May 2022, the solicitation was amended to "revise[] the scope of the requirement due to mission changes." AR Tab 11, FOPR amend. 6 at 1. Among other things, the amendment made changes to the labor categories that would be required for task order performance,⁸ and provided that a vendor's total evaluated price would be calculated by applying its fully burdened labor rates to the estimated level of effort the solicitation identified for each labor category. *Id.* at 22, 73-75. The amended solicitation again incorporated FAR provision 52.222-46 and repeated the requirements that vendors must: submit "base (raw) hourly rates" for each labor category; provide support for the rates proposed; "map proposed offeror labor categories . . . to the corresponding Government labor category"; and "map salary support documentation to each proposed labor category." *Id.* at 6-10.

On June 9, 2022, revised proposals were submitted by Amaze,⁹ STS, and several other vendors.¹⁰ In its proposal, Amaze acknowledged that the solicitation's "certification requirements including LCATs [labor categories] have changed," and that "only 5% of

⁷ The prior protests involved the agency's interpretation of the solicitation requirements for facility clearances; those matters are not at issue in this protest.

⁸ The agency notes that, due to the amendment, some of the labor categories were "consolidated, reduced or otherwise removed" and higher levels of IT certifications were required. AR, Tab 1, Contracting Officer's Statement at 4, 11; Memorandum of Law at 7; AR, Tab 11, FOPR amend. 6 at 131-35. As amended, the solicitation continued to contemplate task order performance with "cyber" labor categories, including forensic malware analyst; cyber defense operator; cyber data engineer; cyber threat emulation and analysis analyst; defensive counter-cyber; emerging threats analyst; and incident response operator. AR, Tab 11, FOPR amend. 6 at 159.

⁹ Amaze states that it is "an unpopulated Joint Venture of AttainX, Inc. and 22nd Century Technologies, Inc.," describing itself as "the current incumbent." AR, Tab 16, Amaze Technical Proposal at 9, 48. The agency states that the prior contract "was awarded to 22nd Century Technologies" and that "Amaze was part of the Joint Venture that performed that contract." AR, Tab 1, Contracting Officer's Statement at 2-3.

¹⁰ The other vendors' proposals were evaluated as technically unacceptable and are not further discussed.

the current staff have the required . . . certifications.” AR, Tab 16, Amaze Technical Proposal at 39-41. Nonetheless, Amaze stated that it had “received commitment from all incumbent staff to continue on the project”¹¹ and proposed to “bring[] all incumbent staff to DCO HAC operations.” *Id.* With regard to the solicitation’s different labor categories and enhanced certification requirements, Amaze asserted it would provide training for its staff and “have 50% of the operational workforce qualified . . . within 60 days after the contract start date,” and “be 100% qualified within 90 days.” *Id.* The labor categories that Amaze’s technical proposal represented would be used to perform the task order were “exactly the same as the ones the Agency set out in the Solicitation.” Comments and First Supp. Protest at 6; see AR, Tab 16, Amaze Technical Proposal at 44.

With regard to price, Amaze’s proposal reflected a total price of \$38,019,159; STS’s proposal reflected a total price of \$62,857,409. AR, Tab 28, First FODD at 36. Amaze’s price proposal stated that its proposed labor rates “were developed using information from . . . the Economic Research Institute (ERI).”¹² AR, Tab 20, Amaze Price Proposal at 8. Although Amaze represented in its technical proposal that it would perform the task order using the “cyber” labor categories identified in the solicitation, Amaze did not rely on ERI labor rates for ERI “cyber” categories to support its price proposal;¹³ rather, Amaze’s price proposal referenced ERI labor categories it identified as “[redacted],” and “[redacted]”—categories that were not among ERI’s “cyber” categories—to support its proposed rates. AR, Tab 21, Amaze Professional Compensation Matrix, Tab 3.

In evaluating the proposals, the agency performed a realism analysis regarding the levels of compensation Amaze proposed, comparing Amaze’s compensation rates to market data the agency obtained from salary.com.¹⁴ AR, Tab 28, First FODD at 33. The agency’s realism analysis acknowledged that Amaze’s proposed labor rates “were higher than incumbent data,” but noted that “this data is from Mar[ch] [20]21, which is prior to the current inflation,” and further noted that the requirements reflected in the amended solicitation were “different from the current contract requirements.” *Id.* Based

¹¹ Amaze stated, “[w]e offer a [redacted] retention bonus as well as salary increase for all staff to continue the contract.” AR, Tab 16, Amaze Technical Proposal at 41

¹² As noted above, see n.6, ERI was one of the data sources the solicitation identified as a basis for supporting proposed compensation. AR, Tab 11, FOPR amend. 6 at 9.

¹³ Amaze states that ERI “contains salary rates for over 6,000 labor categories,” including “cyber” categories. AR, Tab 20, Amaze Price Proposal at 8; see AR, Tab 33, Second Clarification Response at 1.

¹⁴ The agency notes that, in light of the limited number of technically acceptable proposals that were submitted, and consistent with the FAR, the agency performed price analysis by comparing “proposed prices with prices obtained through market research for the same or similar items.” See FAR 15.404-1(b)(2)(vi).

on its comparison of Amaze's proposed rates to the salary.com data, the agency concluded that Amaze's proposed level of compensation was "unrealistically low for the work to be performed," noting that Amaze's proposed labor rates "were an average of 10% lower (ranging from 2% to 24% lower) than the market data obtained."¹⁵ *Id.*

Consistent with the solicitation's warning that failure to propose realistic compensation could render a proposal ineligible for award, the agency concluded that Amaze's proposal was "unawardable." *Id.* at 36. On August 16, the agency selected STS for award and notified Amaze of its source selection decision.

On August 24, following a debriefing, Amaze filed a protest with this Office challenging various aspects of the agency's source selection decision, including the agency's determination that Amaze's proposed compensation for professional employees was unrealistic. AR, Tab 29, Protest of First Award Decision at 12-23. On September 14, the agency advised GAO that it was taking corrective action in response to the protest, stating that it would "reevaluate the price and staffing proposals." AR, Tab 30, Notice of Corrective Action at 1. Based on the pending corrective action, this Office dismissed that protest as academic. *Amaze Technologies, LLC*, B-421002, Sept. 16, 2022 (unpublished decision).

In reevaluating Amaze's proposal, the agency noted discrepancies between Amaze's technical volume and its pricing volume.¹⁶ Specifically, it was concerned that the ERI labor categories Amaze identified in its price proposal to support its proposed wage rates did not correspond to the "cyber" labor categories Amaze's technical proposal represented would be used to perform the task order. Accordingly, the agency became concerned that Amaze intended to either perform the contract with less-qualified personnel than the solicitation required, or compensate its personnel based on wage rates applicable to less qualified personnel. AR, Tab 1, Contracting Officer's Statement at 5; Tab 37 Second FODD at 12-13, 18. Based on this concern, the agency sought clarification from Amaze regarding the apparent inconsistency between Amaze's price and technical proposals.¹⁷ Specifically, the agency asked Amaze to respond to the following:

[I]t appears the price proposal LCATs [labor categories] do not match the technical solution proposed. Please clarify if it is Amaze's intent to use Information Assurance LCATs to perform the work.

¹⁵ The agency also concluded that Amaze's proposed price was unbalanced. AR, Tab 28, First FODD at 33.

¹⁶ The agency states that "[p]rior to the [first] award, the technical team had not reviewed the pricing volume in [as much] depth." AR, Tab 1, Contracting Officer's Statement at 5 n.3.

¹⁷ The agency also sought clarification regarding its assessment that Amaze's price was unbalanced. Amaze provided clarification regarding that matter, and the agency removed this assessment from its evaluation.

AR, Tab 32, First Clarification Request/Response at 1.

Amaze did not respond directly to the agency's perception of inconsistency between Amaze's price and technical proposals; instead, it stated: "Amaze will use the labor categories (LCATs) proposed in its Technical Proposal (Volume I) to perform the work." *Id.* Because Amaze's response did not address the stated concern, the agency sent Amaze a second, more specific clarification request. Noting that several of the labor categories identified in the solicitation were "cyber" categories, the agency stated:

Your intent in Volume I [the technical proposal] is to use OASIS LCATs to perform the work. The ERI LCATs listed in Volume II [the price proposal], however are Information Assurance (IA) LCATs, not Cyber LCATs. Please indicate where in your proposal you explain how you will retain cyber professionals described by the OASIS LCATs and perform the cyber professional work in the PWS [performance work statement], while paying them the significantly lower IA LCATs rates.

AR, Tab 33, Second Clarification Request/Response at 1.

In response, Amaze did not dispute the agency's reference to Amaze's reliance on "information assurance (IA)" labor categories,¹⁸ nor did it respond to the agency's specific request to explain how Amaze intended to retain the cyber professionals identified in its technical proposal, while paying the labor rates identified in its price proposal. Rather, Amaze referred to its "analysis of the Cyber LCATs available on ERI," maintaining that the "IA LCATs descriptions are over encompassing LCATs covering all aspects of Cyber work," and expressing Amaze's disagreement with the agency's conclusion that the wage rates for IA labor categories were "significantly lower than Cyber LCAT [rates]."¹⁹ *Id.* Additionally, Amaze complained that "information related to

¹⁸ As noted above, the ERI labor categories Amaze identified as support for its proposed wage rates were described as "[redacted]," and "[redacted]." AR, Tab 21, Amaze Professional Compensation Matrix, Tab 3. The agency's contemporaneous evaluation documentation refers to the ERI labor categories presented in Amaze's price proposal as "information assurance/security LCATs." AR, Tab 36, Technical Evaluation at 4, 10.

¹⁹ In arguing that the wage rates for the ERI labor categories in its price proposal were not "significantly lower" than the wage rates for ERI's "cyber" categories, Amaze consistently compared information assurance/security categories having higher levels of experience with "cyber" categories that had lower levels of experience. See AR, Tab 33, Second Clarification Response at 1-2. For example, Amaze's clarification response compared the wage rate for an [redacted] with 8 years of experience to the wage rate for a cybersecurity consultant with 3 years of experience. *Id.*

mapping of labor categories was not required to be submitted with the technical proposal.” *Id.*

Thereafter, the agency conducted a more comprehensive realism analysis regarding Amaze’s proposed compensation plan. In its reevaluation, the agency again established market rates, but expanded its research by “using three independent market sources for which the labor categories selected were extensively reviewed by technical experts and compared to the PWS to ensure they were appropriate.”²⁰ AR, Tab 37, Second FODD at 15. More specifically, the agency established market rate benchmarks “by taking the average of a base hourly salary rate obtained from Salary.com for the San Antonio [Texas region], the national mean hourly wage from the U.S. Bureau of Labor Statistics (BLS), and from the Economic Research Institute (ERI) for comparable labor categories.” AR, Tab 34, Professional Compensation Analysis at 2-3. The agency further states that the historic BLS compensation rates (from 2021) “were entered in the BLS inflation Calculator at <https://data.bls.gov/cgi-bin/cpicalc.pl>,” which indicated “prices have increased by 12% from March 2021 to September 2022.” *Id.* Finally, for labor categories that the solicitation designated as “senior,” the agency increased the market rate by 5 percent “to reflect above average experience requirements.” *Id.*

In addition to obtaining the technical evaluation team’s (TET) input regarding the labor categories the agency used to establish the benchmark data, the contracting officer requested that the TET assess the applicability of the ERI labor categories Amaze identified in its price proposal as support for its proposed levels of compensation. AR, Tab 37, Second FODD at 13. In response, the TET described the ERI labor categories identified in Amaze’s price proposal as “primarily invested in data confidentiality, integrity, and availability,” in contrast to the solicitation’s “cyber” categories, which require “active detection and response to potential attacks, and . . . deeper knowledge expertise in the performance of duties,” including “how to operate firewalls, intrusion protection systems, and endpoint detection and response (EDR) software.” AR, Tab 36, Technical Evaluation at 10.

Based on its corrective action reevaluation, the agency determined that Amaze’s proposed labor rates “were an average of 13% lower (ranging from 3% to 26%) than the market data,” and again concluded that Amaze’s proposed compensation levels were unrealistic, rendering the proposal “unawardable.” AR, Tab 37, Second FODD at 18, 22. In determining that Amaze’s proposed rates were materially lower than the market rates, the agency also noted that the proposed rates did not appear to reflect the higher certification levels contemplated by the solicitation or the requirement for security clearances. *Id.* at 18.

²⁰ Although the agency had calculated an internal government cost estimate (IGCE) prior to submission of proposals, upon review, the agency states that it “did not consider either the IGCE or the incumbent data to be valid points of comparison.” AR, Tab 34, Professional Compensation Analysis at 6; Tab 37, Second FODD at 17-18.

Additionally, based on its consideration of the ERI labor categories Amaze selected as support for its proposed compensation rates, the agency concluded that Amaze's proposal "did not reflect a technical understanding of the requirement,"²¹ and downgraded the rating for Amaze's technical proposal under the staffing approach subfactor from good to acceptable.²² AR, Tab 34, Professional Compensation Evaluation at 6; Tab 37, Second FODD at 24.

In its corrective action reevaluation, the agency also assessed the reasonableness of STS's proposed price²³ and again concluded that the price was reasonable,²⁴ stating:

STS's wages are an average of 5% higher than the market data, which the Government determined to be reasonable. For the rates which were greater than 10% higher than the market Median rate[,] we determined that STS was offering a rate within the 75th – 90th percentile of the market, and the position descriptions in the FOPR required specific Government technical experience which would allow for a premium. Considering the current labor market, including economic forces such as inflation, and high competition among employers, the Government takes no issue with the offeror providing a rate which is higher than the mean in order to recruit and retain qualified professional employees.

AR, Tab 37, Second FODD at 21.

Following the agency's completion of its corrective action reevaluation, STS's and Amaze's proposals were rated as follows:

²¹ As noted above, the solicitation advised offerors that the agency would "evaluate the [proposed compensation] plan to assure that it reflects a sound management approach and understanding of the contract requirements." FAR provision 52.222-46(a); see AR, Tab 11, FOPR amend. 6 at 16.

²² A rating of good was defined as applicable where a proposed staffing approach "indicates a thorough approach and understanding of the PWS [performance work statement] requirements"; a rating of acceptable was defined as applicable where a staffing approach "indicates an adequate approach and understanding of the PWS requirements." *Id.* at 11.

²³ Consistent with the terms of the FORP and the FAR, and similar to the realism assessment discussed above, the agency compared STS's price to "prices obtained through market research for the same or similar items." FAR 15.404-1(b)(2)(vi); see AR, Tab 11, FORP amend. 6 at 15.

²⁴ The solicitation defined a reasonable price as one "a prudent person would pay in the conduct of competitive business." AR, Tab 11, FORP amend. 6 at 15.

	STS	Amaze
Technical		
Scenarios	Outstanding	Good
Experience	Good	Good
Staffing Approach	Acceptable	Acceptable
Price (Reasonableness/Realism)	\$62,857,409 (Reasonable)	\$38,019,159 (Unrealistic)

AR, Tab 37 Second FODD at 21-22.

Thereafter, the agency again selected STS for award, stating:

STS represents the best value to the Government based on the outstanding approach in the scenarios. . . . This is a different requirement from the incumbent contract and as a result, requires more highly qualified personnel than the incumbent contract.

Id. at 24-25.

On January 10, 2023, Amaze was notified of the agency's source selection decision. This protest followed.²⁵

DISCUSSION

Amaze's protest challenges the agency's determination that Amaze's proposed compensation for professional personnel was unrealistic; the agency's determination that STS's proposed price was reasonable; and the agency's evaluation of Amaze's and STS's technical proposals. As discussed below, we find no basis to sustain the protest.²⁶

Evaluation of Amaze's Proposed Compensation Plan

Amaze first challenges the agency's determination that Amaze's proposed compensation for professional personnel was unrealistic, asserting that it was improper

²⁵ As noted above, the total evaluated price of the task order at issue here is over \$25 million; accordingly, this procurement is within our jurisdiction to hear protests of task orders placed under defense agency indefinite-delivery, indefinite-quantity contracts. 10 U.S.C. § 3406(f)(1)(B).

²⁶ In addition to the specific arguments discussed below, Amaze presents variations of or additions to those arguments, including the assertion that the source selection authority's review of the contemporaneous record was inadequate. We have considered all of Amaze's various arguments and find no basis to sustain its protest.

for the agency to compare the ERI labor categories Amaze identified in its price proposal to the “cyber” labor categories that Amaze represented in its technical proposal it would use to perform the task order. Remarkably, Amaze asserts that the ERI labor categories identified in its price proposal “had no relationship to the actual skillsets the offerors were to propose, or [to] the actual LCATs Amaze proposed to provide.”²⁷ Protest at 15.

We reject Amaze’s assertion that it was improper for the agency to compare the labor categories that formed the basis for Amaze’s proposed wage rates with the labor categories Amaze’s technical proposal represented would be used to perform the task order. As noted above, the solicitation directed each vendor to submit, as part of its price proposal, “a Total Compensation Plan setting forth salaries and fringe benefits proposed for the professional employees *who will work under the task order*,” AR, Tab 11, FOPR amend. 6 at 8 (emphasis added), stating that each plan would be evaluated “to assure that it reflects a sound management approach and understanding of the contract requirements.” FAR provision 52.222-46(a); see AR, Tab 11, FOPR amend. 6 at 16. Further, the solicitation required vendors to provide support for their proposed compensation plan and “map salary support documentation to each proposed labor category.” AR, Tab 11, FOPR amend. 6 at 9. Finally, the solicitation provided that the agency would evaluate the realism of the proposed wage rates based on the information submitted. On this record, there is no merit in Amaze’s assertion that it was improper for the agency to compare the labor categories Amaze presented as support for its proposed prices to the labor categories Amaze’s technical proposal represented would be used to perform the task order.

Next, Amaze argues that, because it had received “commitment from all incumbent staff to continue on the project,” and had proposed wage rates that were higher than the incumbent rates, there could be no reasonable basis to question Amaze’s ability to recruit the required workforce and, therefore, it was improper for the agency to further assess the realism of Amaze’s proposed compensation. More specifically, Amaze asserts:

Once [the agency] determined that Amaze proposed to return all 53 [incumbent] personnel, have them obtain any additional required certifications (on Amaze’s own dime), and pay them an increased rate and bonus, the Agency should have been satisfied that Amaze’s prices were realistic. Whether or not they were as high as the Agency’s “market rate” was irrelevant.

Comments and First Supp. Protest at 7.

²⁷ In this context, Amaze asserts that the ERI labor category rates “were for pricing purposes only; they did not replace the technical labor categories proposed.” Protest at 11.

As noted above, FAR provision 52.222-46 provides that a vendor's proposed compensation plan will be evaluated with regard to its impact on "recruiting and retention," as well as with regard to its "realism." FAR provision 52.222-46(a). More specifically, the terms of this provision clearly contemplate a procuring agency's consideration of proposed labor rates in the context of incumbent rates, as well as performance of a realism assessment. See, e.g., *Systems Implementers, Inc.; Transcend Technological Systems, LLC*, B-418963.5 *et al.*, June 1, 2022, 2022 CPD ¶ 138 at 20-26; *ENGlobal Government Services, Inc.*, B-419612.3, Dec. 15, 2021, 2022 CPD ¶ 12 at 11-12; *L-3 Nat'l Sec. Sols., Inc.*, B-411045, B-411045.2, Apr. 30, 2015, 2016 CPD ¶ 233 at 7. In this regard, a vendor's proposal of rates above incumbent rates does not eliminate the provisions regarding a realism assessment, particularly where the contract requirements have changed.

With regard to evaluating price realism in a fixed price, level-of-effort contract, the FAR identifies various permissible types of analysis, including a comparison of proposed prices to "prices obtained through market research for the same or similar items." FAR 15.404-1(b)(2)(vi). The FAR also provides that, to the extent the benchmark data reflects historical prices, adjustments for differing economic factors (such as inflation) should be made. FAR 15.404-1(b)(ii)(B). Thus, an agency's comparison of a vendor's proposed wage rates to historical market rates for similar services, and its adjustment of that data to reflect inflation, constitutes a reasonable basis for performing a realism assessment of proposed compensation.

On the basis of the record here, we first reject Amaze's assertion that Amaze's proposal of wage rates higher than the incumbent rates should have been dispositive with regard to the agency's assessment of Amaze's ability to recruit and retain appropriately qualified personnel. As noted above, the requirements under this solicitation were materially different from the requirements under the prior task order, and only five percent of the incumbent staff met the solicitation's enhanced IT qualification requirements.²⁸ Further, the terms of the solicitation contemplated assessment of a vendor's ability to recruit *and retain* qualified personnel. Accordingly, even assuming that all of the incumbent staff will begin task order performance and, during the first period of that performance, will successfully obtain the enhanced IT qualifications required by this solicitation, we find nothing unreasonable in the agency's concern regarding Amaze's ability to subsequently retain those higher-qualified personnel at wage rates the agency determined were materially below the market rates.²⁹

²⁸ As noted above, despite its acknowledgement that "only 5% of the current staff have the required . . . certifications," Amaze proposed to provide training for the incumbent staff, maintaining that they will "be 100% qualified within 90 days." AR, Tab 16, Amaze Technical Proposal at 39-41.

²⁹ Amaze notes that, in addition to the agency's concerns regarding wage rates for personnel with enhanced IT certifications, the agency also questioned whether the proposed rates reflected the necessary security clearances. Amaze complains that this concern was unreasonable because its technical proposal stated that all incumbent

In summary, we have considered all of Amaze's various complaints regarding the agency's determination that Amaze's proposed compensation was unrealistic, and we find no basis to sustain the protest.³⁰ Amaze's protest challenging the agency's determination that Amaze's proposed compensation was unrealistic is denied.

Evaluation of STS's Price Reasonableness

Next, Amaze asserts that STS's proposed price was unreasonably high, and maintains that the agency's determination that STS's price was reasonable was improper because the agency did not rely on a comparison of STS's proposed price to Amaze's substantially lower price or to the agency's IGCE. Protest at 29-30; Comments and First Supp. Protest at 9-10.

In response, the agency notes that, as discussed above, it analyzed the reasonableness of STS's proposed price by comparing it to prices obtained through market research for the same or similar services.³¹ AR, Tab 1, Contracting Officer's Statement at 19. Based on that analysis, the agency determined that STS's proposed price reflected STS's intent to pay wage rates that were, on average, five percent higher than market prices. AR, Tab 37, Second FODD at 21. The agency concluded that, "considering the current labor market, including economic forces such as inflation, and

personnel currently hold the required security clearances. Amaze misses the point. The fact that the current staff hold the required security clearances, along with the assumption that the currently unqualified incumbent staff will become qualified within 90 days, does not eliminate the basis for the agency's reasonable concern about whether Amaze will be able to successfully retain staff at the wage rates it proposed, especially after the incumbent staff's acquisition of enhanced qualifications.

³⁰ In addition to the arguments discussed above, Amaze asserts that it was improper for the agency to rely on the consumer price index (which was imbedded in the BLS calculator) to measure inflation, maintaining that an alternative tool would have been more appropriate, and also asserts that the ERI labor categories Amaze identified as support for its proposed wage rates were, in fact, consistent with the PWS requirements. See Protest appendix M, [redacted] Declaration. In reviewing protests challenging an agency's evaluation judgments, this Office will not reevaluate proposals but, rather, will review the record to determine whether the evaluation was reasonable and consistent with the solicitation and applicable law and regulation. See, e.g., *ISHPI Info. Techs., Inc.*, B-420718.2, B-420718.3, July 29, 2022, 2022 CPD ¶ 195 at 3. Here, based on our review of the record, we find no basis to question the reasonableness of the agency's methodology or its various judgments in determining the appropriate market wage rates; Amaze's disagreements with those agency judgments do not provide a basis for sustaining its protest.

³¹ As noted above, the agency prepared an IGCE prior to submission of proposals, but ultimately determined that the IGCE did not constitute a valid basis for comparison. AR, Tab 34, Professional Compensation Analysis at 6; Tab 37, Second FODD at 17-18.

high competition among employers,” STS’s price was reasonable and reflected a prudent approach to recruiting and retaining qualified professional employees. *Id.*

It is well established that an agency may use various price analysis techniques and procedures to ensure a fair and reasonable price. FAR 15.404–1(b)(2); *see also*, FAR 16.505(b)(3); *TransAtlantic Lines, LLC*, B-411846.3, B-411846.4, May 18, 2016, 2016 CPD ¶ 148 at 7. One permissible technique is a comparison of proposed prices to “prices obtained through market research for the same or similar items.” FAR 15.404-1(b)(2)(vi). In this regard, an agency’s determination of price reasonableness involves the exercise of business judgment and is largely within the agency’s discretion; accordingly, we will not question the agency’s judgment in this regard unless it is shown to be unreasonable. *Unitec Distribution Sys.*, B-419874, B-419874.2, Aug. 20, 2021, 2021 CPD ¶ 307 at 7.

As noted above, the solicitation provided that price reasonableness would be determined by assessing whether the proposed price was one that “a prudent person would pay in conducting business,” AR, Tab 11, FOPR amend. 6 at 15; further, the FAR expressly provides that comparison of proposed prices to market data is a permissible basis for assessing price reasonableness. Here, the record establishes that the agency performed comprehensive market research to establish a benchmark for determining what a prudent person would pay for the services and employee qualifications required under this solicitation. Based on our review of the record, we cannot question the reasonableness of the agency’s judgment in this regard, or its determination that STS’s proposed price was reasonable. Amaze’s protest challenging that determination is denied.

Evaluation of Technical Proposals

Finally, Amaze challenges the agency’s evaluation of Amaze’s and STS’s technical proposals. With regard to STS’s proposal, Amaze asserts that it should have been evaluated as unacceptable because STS “does not have adequate staff to perform the work unless it is successful in capturing the incumbent personnel.”³² Protest at 28. In response to this allegation, the agency sought dismissal, asserting that the allegation was speculative and without adequate factual support.

Our Bid Protest Regulations require that a protest include a sufficiently detailed statement of the grounds supporting the protest allegations. 4 C.F.R. §§ 21.1(c)(4), 21.1(f), and 21.5(f). That is, a protest must include a sufficient factual basis to establish a reasonable potential that the protester’s allegations may have merit; bare allegations or speculation are insufficient to meet this requirement. *Ahtna Facility Servs., Inc.*, B-404913, B-404913.2, June 30, 2011, 2011 CPD ¶ 134 at 11.

³² Directly contrary to this speculative assertion, Amaze states: “STS instead must have proposed to hire additional personnel.” Protest at 27.

Here, Amaze's allegations regarding the evaluation of STS's technical proposal are based on a declaration submitted by a 22nd Century officer, stating that she received an email from another 22nd Century employee, which referenced an alleged conversation between another (unnamed) incumbent employee and an STS representative, during which the STS representative allegedly indicated that STS "wants to hire us all." Protest append. O, [redacted] Declaration at exh. 1. On this record, we concluded that Amaze's allegations challenging the evaluation of STS's technical proposal were not supported by a sufficient factual basis, and advised the agency it need not respond to those allegations; Amaze's allegations in this regard are dismissed.

With regard to the evaluation of Amaze's technical proposal, Amaze identifies various alleged flaws. However, as noted above, we have concluded that the agency reasonably evaluated Amaze's proposal as ineligible for award on the basis of its unrealistic proposed compensation plan; further, we have determined that the agency properly determined that STS's price was reasonable. Thus, even if we were to agree that the agency's evaluation of Amaze's technical proposal contained flaws, Amaze would still be ineligible for award; therefore, there is no potential competitive prejudice to Amaze based on the alleged flaws in the evaluation of its technical proposal. See, e.g., *MCR Federal, LLC*, B-411977, B-411977.2, Nov. 23, 2015, 2016 CPD ¶ 3 at 5. On this record, we decline to further address Amaze's complaints regarding the evaluation of its technical proposal.

The protest is denied.

Edda Emmanuelli Perez
General Counsel