



Decision

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Matter of: Tyonek Engineering & Agile Mfg, LLC

File: B-421547; B-421547.2

Date: May 26, 2023

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Eric S. Crusius, Esq., Jeremy D. Burkhart, Esq., and Richard Ariel, Esq., Holland & Knight LLP, for Total Quality Systems, Inc., the intervenor.

Colonel Frank Yoon, and Isabelle P. Cutting, Esq., Department of the Air Force, for the agency.

Heather Self, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency’s evaluation of proposed prices is sustained where the evaluation record is internally inconsistent and inadequately documented, and, thus, inhibits our ability to review the evaluation to determine whether it was reasonable.
 2. Protest contending agency conducted misleading discussions is sustained where the agency failed to lead protester into the true area of concern about its price.
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DECISION

Tyonek Engineering and Agile Manufacturing (TEAMCOR), a small business of Anchorage, Alaska, protests the award of four indefinite-delivery, indefinite-quantity (IDIQ) contracts under request for proposals (RFP) No. FA812622R0001, issued by the Department of the Air Force for interface test adapters and related test equipment.¹ The protester challenges the agency’s evaluation of proposed pricing, conduct of discussions, and best-value tradeoff.

We sustain the protest.

¹ The four small business awardees are: (1) WesTest Engineering Corp (WTE), of Layton, Utah; (2) Total Quality Systems, Inc. (TQSI), of Roy, Utah; (3) X Technologies, Inc. (XTI), of San Antonio, Texas; and (4) ION Corporation, of Prairie, Minnesota. Agency Report (AR) Tab 24a, Notice of Award at 1.

BACKGROUND

The agency issued the solicitation as a total small business set-aside on January 6, 2022, using the procedures of Federal Acquisition Regulation (FAR) part 15. Contracting Officer's Statement (COS) at 3-4; AR, Tab 5a, RFP at 1; Tab 5k, RFP attach. 3, Evaluation Factors for Award at 1. The solicitation sought proposals for the design and manufacture of interface test adapters and related test equipment. RFP at 12; AR, Tab 5b, Statement of Work (SOW) at 4.

The solicitation contemplated issuance of up to four fixed-price IDIQ contracts, each with a minimum guaranteed order of 1 item, a maximum ordering limit of 964 items, a 1-year base period, and four 1-year option periods. COS at 4; RFP at 3-11, 60-61. The solicitation provided that award would be made on a best-value tradeoff basis, considering the following evaluation factors: (1) technical; (2) past performance; and (3) price. AR, Tab 5k, RFP attach. 3, Evaluation Factors for Award at 1, 3. Under the technical factor, proposals would be evaluated on an acceptable/unacceptable basis. According to the solicitation, past performance was significantly more important than price, and that potential tradeoffs between past performance and price would only be made with technically acceptable proposals.² *Id.* at 3. With respect to price, the solicitation established that the agency would calculate a total evaluated price (TEP) for each technically acceptable proposal, and evaluate offerors' TEPs for reasonableness (including completeness), balance, and realism. *Id.* at 10.

The agency received ten timely proposals and one late proposal in response to the solicitation, including those submitted by the protester and the four awardees. COS at 7; AR, Tab 24a, Notice of Award at 1. After evaluating initial proposals, the agency established a competitive range of nine offerors and conducted discussions. COS at 7-8; AR, Tab 12, Competitive Range Determination at 1, 7. Following discussions, the final revised proposals submitted by the protester and four awardees were evaluated as follows:

	TEAMCOR	WTE	TQSI	XTI	ION
Technical	Acceptable	Acceptable	Acceptable	Acceptable	Acceptable
Past Performance	Substantial Confidence	Substantial Confidence	Satisfactory Confidence	Satisfactory Confidence	Substantial Confidence
TEP	\$112,702,738	\$24,123,608	\$43,385,401	\$43,964,644	\$37,493,852

AR, Tab 21, Source Selection Decision at 6-7; Tab 22, Source Selection Evaluation Board Briefing at 8, 22, 26, 29, 32.

² For past performance, proposals would be assigned one of the following ratings: substantial confidence, satisfactory confidence, neutral confidence, limited confidence, or no confidence. AR, Tab 5k, RFP attach. 3 at 6.

Subsequent to being notified of the award decision and receiving a debriefing, TEAMCOR filed this protest.

DISCUSSION

The protester challenges multiple aspects of the agency's evaluation of proposed pricing. Further, TEAMCOR contends the agency engaged in discussions that were not meaningful. Finally, the protester argues that the evaluation errors resulted in a flawed best-value tradeoff source selection decision. While we do not discuss each of the protester's arguments, we have considered them all and find that, other than those discussed herein, none provides a basis to sustain the protest.³

Price Evaluation

The protester challenges the agency's price evaluation, arguing that it resulted in an assessment that failed to normalize proposed prices and "bear[s] no rational relationship to what the Agency can expect to pay." Protest at 18-20. Further, the protester takes issue with the agency's evaluation of prices for reasonableness and realism, and contends the agency failed to adequately document the evaluation. *Id.* at 20-21; Supp. Protest at 4-7. The agency responds that its evaluation of proposed prices was reasonable, in accordance with the methodology established in the solicitation, and documented adequately, and that "TEAMCOR's allegations boil down to a disappointed incumbent's disagreement with the agency's award determination." Memorandum of Law (MOL) at 9; see *generally id.* at 8-13; COS at 19, 21-30; Supp. COS/MOL at 12-25. For the reasons explained below, we sustain the protest.

Price Evaluation--Methodology

As relevant here, the solicitation did not require offerors to respond to a specific delivery order; instead the RFP instructed offerors, under the technical factor, to submit "a general approach to designing and manufacturing an [interface test adapter]," which the agency would evaluate on a technically acceptable/unacceptable basis. AR, Tab 5k, RFP attach. 3, Evaluation Factors for Award at 3-4. With respect to pricing, the solicitation included a list of estimated quantities for a variety of contract line item numbers (CLINs)--e.g., 40 units of interface test adapter design and 40 units of manufacture in the base period--and required offerors to submit pricing for the estimated quantities of each CLIN.⁴ RFP at 3; AR, Tab 9b, RFP attach. 2, Instructions to Offerors at 11; see *generally* Tab 5j, RFP attach. 3.1, Pricing Matrix. To assist

³ For example, the protester challenges the agency's evaluation of proposed prices for balance. Supp. Protest at 7-8. We have reviewed this challenge, and conclude it does not provide a separate basis to sustain the protest.

⁴ The solicitation provided that both the estimated quantities as well as the offerors' TEPs, calculated using the estimates, would be "for evaluation purposes only." AR, Tab 9b, RFP attach. 2, Instructions to Offerors at 12.

offerors in completing their pricing matrices, the agency posted a set of example drawings of sample test adapters and related equipment, but advised offerors that “these example drawings do not have to be utilized and are only examples.” AR, Tab 7a-7g, Posting Notice and Example Drawings at 1. Additionally, the agency stated that “[n]ew drawings related to future projects will be released on a delivery order basis once the contract has been awarded.” *Id.*

In addition to the price matrix, offerors were required to include in their proposals “sufficient rationale describing how prices were developed (such as assumptions, historical data, projections, expertise, management decisions, etc.).” AR, Tab 9b, RFP attach. 2, Instructions to Offerors at 11; Tab 5k, RFP attach. 3, Evaluation Factors for Award at 11-12. The solicitation provided that the agency would review offerors’ proposal information “regarding cost assumptions utilized in the development of proposed pricing” in order “to understand Offerors’ proposed pricing basis of estimate,” and that, if an offeror used price assumptions, the agency would review the firm’s “supporting data and estimating methodology to support [price] reasonableness” evaluation. AR, Tab 9b, RFP attach. 2, Instructions to Offerors at 12; Tab 5k, RFP attach. 3, Evaluation Factors for Award at 12.

The agency received multiple questions from offerors about the example drawings and how they related to the pricing matrix offerors were required to complete. *See generally* AR, Tab 9a, RFP Questions & Answers (Q&A). One offeror asked:

For the pricing of CLINS, is it the intent of the [government] for the offer[o]rs to base this pricing on the example assembly drawings provided by the [government] . . . or are we to provide assumptions/parts list/drawing showing the basis of this cost estimate? If we are to use the example assembly drawings provided, would the [government] specify which assemblies/drawings should be used for each CLIN?

Id. at 1 (Q&A No. 4). Another offeror asked:

We don’t understand where the basis for these prices should be derived from. [Interface test adapters] can be simple (low cost) or very complex (high cost). Same with Support Equipment. We could have a simple piece of support equipment like an air blower unit which is very low cost, or we could have an RF equipment rack assembly that could be an extremely high cost. The issue here is that every bidder’s prices should be evaluated on the same level playing field, meaning they should all be pricing the same hardware items in order to fairly evaluate their pricing against each other.

Id. at 2 (Q&A No. 10).

To each of these questions, the agency responded:

The Government cannot provide direction on how to formulate proposal pricing. The Government is not going to need the exact hardware listed in the drawing package that was posted. The drawings were submitted to provide offerors with a general idea of what is to come. The intention is to use the example provided to price something similar. The example drawings are more on the high complexity side of things, and the Government is only asking for one overall price per CLIN. In regards to the components manufactured by current incumbents or potential competitors, the intention is not to price the exact example posted.

Id. at 1-2 (Q&A Nos. 4, 10). Similarly, the agency received a third question asking: “Is it the Government’s intent for offerors to bid pricing based on the Example Data Package,” to which the Air Force replied “No,” adding that it was “just an example document that you may use, if you choose to do so, in assisting in the development of your proposal.” *Id.* at 2 (Q&A No. 8).

The protester contends that the agency failed to normalize offerors’ evaluated prices and did not “even try to make an apples-to-apples comparison,” which, TEAMCOR argues, “fundamentally undermines the requirement to evaluate offers on a relatively equal basis.” Protest at 19. Further, the protester asserts that “[w]ithout some effort to rationalize the prices offered, there is no logical link to the prices the Agency can expect it will pay during performance.” *Id.* According to TEAMCOR, the agency should have understood that the solicitation “had apparently attracted offers that proposed items that were not ‘similar’ in any rational sense of the word” based on the approximately \$24.1M to \$112.7M price range between the lowest-price awardee and the protester. *Id.* at 19-20.

The agency and TQSI, an intervenor, ask our Office to dismiss TEAMCOR’s challenge, arguing that the protester’s allegation, in this respect, is an untimely challenge to the terms of the solicitation. MOL at 10; Intervenor Comments at 2. We agree.

Our Bid Protest Regulations contain strict rules for the timely submission of protests. These rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. *Verizon Wireless*, B-406854, B-406854.2, Sept. 17, 2012, 2012 CPD ¶ 260 at 4. Our timeliness rules specifically require that a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial submissions be filed before that time. 4 C.F.R. §21.2(a)(1); see *AmaTerra Env’tl., Inc.*, B-408290.2, Oct. 23, 2013, 2013 CPD ¶ 242 at 3.

Here, TEAMCOR’s concern that there was no “apples-to-apples” comparison of prices is an untimely challenge to the price evaluation methodology set forth in the solicitation. As acknowledged by the protester, the solicitation did not require offerors to propose pricing based on a specific delivery order and repeatedly advised offerors that the provided drawings were an example only that offerors could use to “price something similar.” Protest at 18, *citing* AR, Tab 9a, RFP Q&A at 1-2 (Q&A Nos. 4, 10); see *also*

Comments at 4 (“The Agency’s lackluster evaluation goes beyond TEAMCOR’s proposal, and instead implicates the entire solicitation.”). Thus, the solicitation put the protester on notice that the agency did not intend to evaluate proposed pricing on the basis of a common set of drawings, but rather would evaluate offerors’ pricing based on their proposed approaches to the design and production of interface test adapters similar to those in the provided drawings. Despite the RFP’s advisement of how prices would be evaluated, TEAMCOR waited until after award to raise its concern about a lack of an “apples-to-apples” price comparison. Accordingly, we dismiss this portion of the protester’s argument as untimely. See e.g., *Adams and Assocs., Inc.*, B-417120, B-417125, Jan. 16, 2019, 2019 CPD ¶ 21 at 3 (dismissing as untimely protester’s allegations premised on the notion that the procurement processes in place were so flawed that they could not yield fair or proper results because “our timeliness rules do not allow a protester to wait to raise a fundamental flaw with the procurement until after an award decision has been made”).

Price Evaluation--Reasonableness and Realism

In addition to its complaint that the solicitation failed to provide for an “apples-to-apples” price comparison, the protester also challenged the agency’s evaluation of the reasonableness and realism of proposed prices. The protester contends the agency’s conclusion--that TEAMCOR’s price was reasonable while, at the same time, finding the awardees’ prices (which were substantially lower for “similar items”) to be realistic--is irrational, arguing that “the Agency failed to rationally evaluate both price reasonableness and price realism.” Protest at 20-21. Specifically, the protester asserts that, in light of the solicitation’s direction for offerors to “price something similar” to the example drawings and given the approximately \$88.5M difference between the lowest-price awardee (WTE) and TEAMCOR’s own proposed price, the agency’s simultaneous conclusions that WTE’s price of approximately \$24.1M was not so low as to be unrealistic while TEAMCOR’s price of approximately \$112.7M was not so high as to be unreasonable “seem irreconcilable and therefore unreasonable.” *Id.* at 18-19. Further, the protester maintains that the record does not include “any actual independent analysis” of offerors’ proposed prices to show that the agency considered an offeror’s pricing data “in connection with the offeror’s technical solution to determine whether the price proposed was reasonable.” Comments at 5; see also Supp. Protest at 5. We read these arguments as a challenge to the agency’s application of the solicitation’s price evaluation methodology with respect to the assessment of both price reasonableness and price realism.

The agency defends that it “grounded its evaluation of proposed prices by comparing them to its IGE [independent government estimate],” and explains that it “verified the veracity of all proposed prices by reviewing and considering all documentation that offerors included with their price proposals.” MOL at 9. The record reflects that the agency received initial proposed prices ranging from approximately \$22.3M to \$142.2M. COS at 25. The record also shows that the agency used the same three price analysis techniques to evaluate prices for both reasonableness and realism: (1) price competition; (2) comparison of prices to an IGE; and (3) analysis of data other than

certified cost or pricing data provided by offerors.⁵ AR, Tab 20a, TEAMCOR Price Evaluation (Eval.) at 3-5; Tab 31 ION Price Eval. at 3-5; Tab 33 TQSI Price Eval. at 3-5; Tab 35, WTE Price Eval. at 3-5; Tab 37, XTI Price Eval. at 3-5;

The record reveals that during evaluation of initial proposals, the evaluators were unable to conclude that TEAMCOR's (or any of the awardees') proposed prices was reasonable or realistic, using those price analysis techniques. AR, Tabs 20a, TEAMCOR Price Eval. at 3-5; Tab 31 ION Price Eval. at 3-5; Tab 33 TQSI Price Eval. at 3-5; Tab 35, WTE Price Eval. at 3-5; Tab 37, XTI Price Eval. at 3-5. Specifically, the evaluators concluded that "the difference between [each offeror's] price and the other competitive offers were not within a reasonable range," and similarly that "the difference between [each offeror's] price and the IGE [was] not within a reasonable range" for either price reasonableness or price realism purposes.⁶ *Id.* Further, each offeror proposed individual prices for multiple CLINs that were either more than 25 percent above or more than 25 percent below the IGE's CLIN pricing, resulting in the evaluators' conclusion that these individual CLIN prices were also "not within a reasonable range." *Id.* Based on the evaluators' pricing concerns, the agency issued evaluation notices (ENs) to each offeror related to its pricing. *Id.*

Following discussions and submission of final revised proposals, the four awardees' revised prices ranged from approximately 27 percent below to 32 percent above the IGE, and the evaluators concluded that "the difference between [the four awardees' final revised] proposed individual CLIN prices and the IGE [were] within a reasonable range" for both price reasonableness and price realism purposes. AR, Tab 31, ION Price Eval. at 9-11; Tab 33 TQSI Price Eval. at 10-11; Tab 35, WTE Price Eval. at 10-11; Tab 37, XTI Price Eval. at 10, 12. Conversely, the evaluators found that TEAMCOR's final proposed price (which remained unchanged) was approximately 239 percent higher than the IGE, and that the firm's individual CLIN prices were not within a reasonable range of the IGE CLINs for either price reasonableness or price realism purposes. AR, Tab 20a, TEAMCOR Price Eval. at 10-12.

In performing the price evaluation on final revised proposals, the agency proceeded in a similar manner as with the initial price evaluation. First, using the adequate competition price analysis technique--*i.e.*, comparing offerors' prices to one another--the evaluators determined that the difference between each offerors' final revised price "and the other competitive offers were not within a reasonable range" for either price reasonableness or price realism purposes. AR, Tab 20a, TEAMCOR Price Eval. at 10, 12; Tab 31, ION Price Eval. at 10-11; Tab 33 TQSI Price Eval. at 10, 12; Tab 35, WTE Price Eval.

⁵ The FAR defines price analysis as "the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit," and provides examples of various price analysis techniques which may be used. FAR 15.404-1(b). The three methods employed by the agency are identified in the FAR as examples of price analysis techniques. See FAR 15.404-1(b)(2)(i), (v), (vii).

⁶ The IGE was \$33,269,581. AR, Tab 20a, TEAMCOR Price Eval. at 3.

at 10-11; Tab 37, XTI Price Eval. at 10, 12. Despite “recogniz[ing] some disparity between competition,” the evaluators ultimately found each of the awardees’ final prices to be both reasonable and realistic, “based on the comparison to the IGE and the data [other than certified cost or pricing data] provided by the offeror[s]” in their proposals and in response to discussions. *Id.* Similarly, while the evaluators “recognize[d] the disparity between” a comparison with the IGE and a comparison with other proposed prices, the agency concluded that TEAMCOR’s final price was both reasonable and realistic, based on analysis of data (other than certified cost or pricing data) provided by the protester in its proposal and in response to discussions. AR, Tab 20a, TEAMCOR Price Eval. at 10, 12.

With respect to the price analysis technique of analyzing data other than certified cost or pricing data employed by the evaluators, the record reflects that the price evaluation worksheets included largely identical language for each offeror. That is, the worksheets noted that TEAMCOR’s and the awardees’ proposals “included sufficient details describing how [their] price[s] [were] developed,” such as information about an offeror’s accounting systems or addressing an offeror’s specific estimating techniques and methods. AR, Tab 20a, TEAMCOR Price Eval. at 10, 12; Tab 31, ION Price Eval. at 10, 12; Tab 33, TQSI Price Eval. at 10, 12; Tab 35, WTE Price Eval. at 10, 12; Tab 37, XTI Price Eval. at 10, 12. Additionally, the evaluators listed the information provided in each offerors’ EN responses and then used largely identical language to note, for each offeror, that responses to the various pricing ENs “included details related to proposed pricing for the CLINs reference in” the ENs that resolved the pricing concerns related to those CLINs. AR, Tab 20a, TEAMCOR Price Eval. at 10, 12; Tab 31, ION Price Eval. at 10-12; Tab 33, TQSI Price Eval. at 10, 12; Tab 35, WTE Price Eval. at 10, 12; Tab 37, XTI Price Eval. at 11, 13.

As our Office has explained, price reasonableness concerns whether a price is unreasonably high, while price realism relates to whether or not a price is too low. See *Systems Plus, Inc.*, B-415559, B-415559.2, Jan. 12, 2018, 2018 CPD ¶ 27 at 6; FAR 15.404-1(b), 15.404-1(d). An agency’s price reasonableness determination is a matter of administrative discretion, involving the exercise of business judgment by the contracting officer, that we will question only where it is unreasonable. *InfoZen, Inc.*, B-411530, B-411530.2, Aug. 12, 2015, 2015 CPD ¶ 270 at 5. Similarly, our review of a price realism analysis is limited to determining whether it was reasonable and consistent with the terms of the solicitation. *Logistics 2020, Inc.*, B-408543, B-408543.3, Nov. 6, 2013, 2013 CPD ¶ 258 at 8.⁷ Where an agency fails to document its price evaluation, it

⁷ As a general matter, when, as here, an agency seeks to award a fixed-price contract it is only required to determine whether proposed prices are fair and reasonable. FAR 15.402(a). Price realism--whether an offeror’s proposed price is too low--need not necessarily be considered in evaluating proposals for the award of a fixed-price contract, because such contracts place the risk of loss on the contractor rather than the government. *Patronus Systems, Inc.*, B-418784, B-418784.2, Sept. 3, 2020, 2020 CPD ¶ 291 at 4. An agency may include in a solicitation, as it did here, however, a provision

bears the risk that there may not be an adequate supporting rationale in the record for us to conclude that the agency had a reasonable basis for its source selection decision. *Valor Healthcare, Inc.*, B-412960, B-412960.2, July 15, 2016, 2016 CPD ¶ 206 at 6.

Here, the record reflects that the evaluators acknowledged the prices received through competition were disparate to the point of creating an unreasonable price range, and instead relied, in part, on comparison to the IGE, but further acknowledged that this comparison also was problematic for at least one offeror--the protester.⁸ Further, the Microsoft Excel workbooks comparing offerors' final revised CLIN prices to the IGE's CLIN prices show that "Reasonableness and Realism issues still exist[ed]" for three of the four awardees.⁹ This, however, appears to contradict the price evaluation worksheets for these three offerors, which state that the CLIN pricing issues were resolved. AR, Tab 31, ION Price Eval. at 10-12; Tab 33, TQSI Price Eval. at 10, 12; Tab 35, WTE Price Eval. at 10, 12; Tab 37, XTI Price Eval. at 11, 13.

Due to the issues encountered with price competition and comparison to the IGE methods, the primary price analysis technique relied upon by the evaluators to establish both price reasonableness and price realism for all offerors was analysis of data (other than certified pricing data) provided by the offerors in their proposals and in response to discussions. However, other than the largely identical language included in each offerors' price evaluation worksheets indicating that the pricing data analysis technique was used, neither the price evaluation worksheets nor the contemporaneous record of discussions, documents or explains, in any fashion, which "pricing data" was used and what analysis was undertaken by the evaluators.¹⁰ In other words, the agency's price

that provides for a price realism evaluation for the purpose of assessing whether an offeror's low price reflects a lack of understanding of the contract requirements or the risk inherent in the offeror's proposal. *Id.*

⁸ Neither the contemporaneous record nor the agency's response to the protest explain why the threshold of 25 percent--used for determining reasonableness and realism by the evaluators when comparing initial prices to the IGE--was not used when comparing final revised prices to the IGE, or if a different threshold was established for comparing final revised prices to the IGE. We note that had the agency continued to use the 25 percent threshold, three of the four awardees' final prices, in addition to the protester's price, would have been above or below that threshold.

⁹ AR, Tab 30h, ION Price Eval.-Discussions at 1st worksheet tab, column B, row 30; Tab 32h, TQSI Price Eval.-Discussions at 1st worksheet tab, column B, row 30; Tab 34h, WTE Price Eval.-Discussions at 1st worksheet tab, column B, row 28.

¹⁰ See AR, Tab 20a, TEAMCOR Price Eval. at 10, 12; Tab 31, ION Price Eval. at 10-12; Tab 33, TQSI Price Eval. at 10, 12; Tab 35, WTE Price Eval. at 10, 12; Tab 37, XTI Price Eval. at 10-13; and see *generally* AR Tabs 13a, 14a, 15a, 16a, TEAMCOR Pricing ENs; Tabs 30e, 30f, 30g, ION Pricing ENs; Tabs 32c, 32d, 32e, TQSI Pricing ENs; Tabs 34d, 34e, 34f, WTE Pricing ENs; Tabs 36d, 36e, 36f, 36g, 36h, XTI Pricing ENs.

evaluation was essentially a statement that it used data (other than certified cost or pricing data) as the basis for its price analysis--because the Air Force had found comparison of prices between offerors, as well as comparison of prices with the IGE, to be problematic--and the conclusion that offerors' prices were reasonable and realistic. Moreover, in the agency report responding to the protest, the Air force neither elaborated nor even attempted to explain how the agency used offerors' data (other than certified cost or pricing data) in performing its price analysis. See COS at 21-30. Rather, the agency simply points to the price evaluation worksheets for each offeror, which, as discussed above, are inconsistent with the price evaluation Excel workbooks and include no information or documentation as how the evaluators applied or utilized this price analysis technique to reach its conclusions regarding the reasonableness and realism of prices.¹¹ Supp. COS/MOL at 14.

In sum, the record here: (1) is internally inconsistent as to whether three of the four awardees' proposed individual CLIN prices were considered reasonable and realistic as compared to the IGE; and (2) includes no documentation--contemporaneous or otherwise--explaining how the agency employed the technique of analyzing data (other than certified pricing data) that was relied upon in determining both price reasonableness and price realism of proposals. As such, without adequate documentation or explanation of the agency's price analysis, we have no basis to conclude that the evaluation was reasonable. See e.g., *Valor Healthcare, Inc.*, *supra* at 7-8 (sustaining protest challenging price realism evaluation where the contemporaneous record included no documentation of a price realism evaluation and the record showed at least one area in which the awardee's proposal raised an obvious price realism concern).

Competitive prejudice is an element of every viable protest. *Valor Healthcare, Inc.*, *supra* at 8. Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions; that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. *AT&T Mobility LLC*, B-420494, May 10, 2022, 2022 CPD ¶ 115 at 12. Here, the record shows that the agency did not adequately document its evaluation of price reasonableness or price realism, as required by the solicitation. Because we cannot assess the reasonableness of the agency's price evaluation, we cannot say what impact this would have made on the best-value tradeoff decision, especially in light of the protester receiving the highest rating (substantial confidence) under the significantly more important past performance evaluation factor. In such circumstances, we resolve doubts regarding prejudice in favor of a protester, as a reasonable possibility of prejudice is a sufficient basis for

¹¹ The agency also cites to multiple Microsoft Excel workbooks that document its comparison of offerors' proposed prices to the IGE and assessment of prices for balance across contract years. Supp. COS at 12-14. The agency, however, does not contend, nor does the record show, that any of these workbooks document the agency's assessment of offerors' pricing data, which was the primary evaluation technique used by the agency to establish price reasonableness and price realism.

sustaining a protest. *Aluttig-Banner Joint Venture, B-412952 et al.*, July 15, 2016, 2016 CPD ¶ 205 at 11. We therefore conclude that there is a reasonable possibility that TEAMCOR was prejudiced by the agency's actions, and sustain the protester's challenge to the agency's evaluation of price reasonableness and price realism.

Discussions

In addition to challenging the agency's evaluation of proposed prices, TEAMCOR maintains that the agency's conduct of discussions related to price was not meaningful.¹² Protest at 21. As relevant here, during discussions, the Air Force advised the protester that various CLINs appeared to be priced either too high or too low as compared to the IGE, and explained that "[t]he Government [was] uncertain what the Offeror has included in the proposed unit pricing." AR, Tab 13a, TEAMCOR Pricing EN 1 at 1; Tab 14a, TEAMCOR Pricing EN 2 at 1. The agency instructed TEAMCOR to review its unit pricing "to ensure only the necessary requirements from the Statement of Work (SOW) requirements are included in the proposed pricing." *Id.* The agency further advised that if TEAMCOR changed its unit prices, the final revised proposal should "provide the corrected prices with a Basis of Estimate or explanation of the revised proposal prices along with an updated Price Matrix." *Id.* Conversely, if unit prices were not changed, the final revised proposal should "verify the prices as correct and provide a complete explanation to justify the" individual CLIN prices. *Id.*

In response to these ENs, TEAMCOR did not make any revisions to its unit or total pricing, which remained approximately 239 percent higher than the IGE, but the firm did provide additional details about the basis for its pricing. AR, Tab 20a, TEAMCOR Price Eval. at 10-11. As discussed, the evaluators did not consider TEAMCOR's final proposed price to be within a reasonable range of the IGE. Nor, for that matter, did the agency consider the range of proposed prices from all offerors (*i.e.*, price competition) to be a reasonable range for purposes of evaluating either price reasonableness or price realism. *Id.* at 10-12. This time, however, the evaluators concluded that TEAMCOR's unchanged final price was both reasonable and realistic, based on an analysis of data (other than certified cost or pricing data) provided by the firm in its initial proposal and EN responses. *Id.* at 10, 12. Accordingly, the agency advised TEAMCOR that it was "*not* required to submit any additional information as part of [its final proposal revision]," and that discussions were closed. AR, Tab 18, TEAMCOR Final Proposal Revision Letter at 1.

The protester asserts that the agency misled TEAMCOR when it advised that no additional changes to its proposal were required. Protest at 21, *citing* AR, Tab 18, TEAMCOR Final Proposal Revision Letter at 1. Specifically, the protester contends that this was misleading because the agency did not tell TEAMCOR that its price was not within a reasonable range of the IGE. *Id.* Rather, the agency issued ENs to TEAMCOR

¹² TEAMCOR also contends the agency's conduct of discussions was not equal. Protest at 22. We have reviewed this challenge, and conclude it does not provide a separate basis to sustain the protest.

for six CLINs that “appear[ed] higher than anticipated” and another seven CLINs that “appear[ed] lower than anticipated” when compared to the IGE. Comments at 8, *citing* AR, Tab 13a, TEAMCOR Pricing EN 1 at 1; Tab 14a, TEAMCOR Pricing EN 2 at 1. The protester argues the agency failed to provide any context for the magnitude of the high-priced CLINs, thus, creating “the misleading impression that TEAMCOR was in the ballpark, needing to raise the same number of CLINs that it lowered.” Comments at 8. Further, the protester asserts it was improper for the agency not to inform “TEAMCOR that its [total] pricing was way above its nearest competitors and was so high as to not be realistically in contention.” *Id.* at 7. The agency responds that the ENs advising TEAMCOR about specific CLINs that appeared high-priced and other CLINs that appeared low-priced, sufficiently led the protester “to areas of the agency’s concern.” MOL at 14.

It is a fundamental principle of negotiated procurements that discussions, when conducted, must be meaningful; that is, discussions must identify deficiencies and significant weaknesses in an offeror’s proposal that could reasonably be addressed so as to materially enhance the offeror’s potential for receiving award. See FAR 15.306(d)(3); *Crowley Logistics, Inc.*, B-412628.2, B-412628.3, Apr. 19, 2016, 2016 CPD ¶ 120 at 5. The actual content and extent of discussions are matters of judgment primarily for determination by the agency involved, and we generally limit our review of the agency’s judgments to a determination of whether they are reasonable. *Creative Info. Tech., Inc.*, B-293073.10, Mar. 16, 2005, 2005 CPD ¶ 110 at 7. Specifically, with regard to the adequacy of discussions of price, an agency generally does not have an obligation to tell an offeror that its price is high, relative to other offerors, unless the government believes the price is unreasonable. *Id.*

As discussed above, the evaluation of price reasonableness and realism on which the agency based its discussions of offerors’ pricing was flawed. As a result, the price discussions conducted by the agency also were flawed. See *e.g.*, *TekSynap Corp.*, B-419464, B-419464.2, Mar. 19, 2021, 2021 CPD ¶ 130 at 12-13 (sustaining protest where “[b]ecause we [found] that the agency’s evaluation of the proposals of [the awardee and protester] under the technical/management factor was unreasonable, any decision not to engage in further discussions with [the protester] because [the awardee’s] proposal was technically superior to [the protester’s was] necessarily unreasonable”). Accordingly, we sustain the protester’s challenge to the agency’s conduct of discussions.

Best-Value Tradeoff

The protester also contends that the agency’s best-value tradeoff necessarily was flawed because the underlying price evaluation was flawed. Protest at 22. In reviewing an agency’s source selection decision, we examine the supporting record to determine if it was reasonable and consistent with the solicitation’s evaluation criteria and applicable procurement statutes and regulations. *Guidehouse LLP; Jacobs Tech., Inc.*, B-420860 *et al.*, Oct. 13, 2022, 2022 CPD ¶ 257 at 17. In light of our determination that the record does not provide a sufficient basis for us to find reasonable the agency’s

price evaluation, we find the source selection based on an unreasonable price evaluation to be itself unreasonable. *Weston-ER Fed. Servs., LLC*, B-418509, B-418509.2, June 1, 2020, 2020 CPD ¶ 311 at 16 (“an agency’s best-value determination is flawed when one or more of the underlying evaluations upon which that tradeoff analysis is based are unreasonable, erroneous[,] or improper”).

RECOMMENDATION

We recommend that the agency reopen discussions, perform and document a price reasonableness and a price realism analysis that is reasonable and consistent with the terms of the solicitation, then make a new source selection decision. Additionally, prior to conducting new discussions and evaluations, the agency may want to consider revising the solicitation to clarify the technical requirements on which offerors are to base their pricing in order to alleviate the issues the agency previously experienced with the comparison of offerors’ prices to one another and to the IGE.

Finally, we recommend that the agency reimburse TEAMCOR’s costs of filing and pursuing the protest, including reasonable attorneys’ fees. 4 C.F.R. § 21.8(d)(1). TEAMCOR should submit its claim for costs, detailing and certifying the time expended and costs incurred, to the contracting agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

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General Counsel