



**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. No party requested redactions; we are therefore releasing the decision in its entirety.

## Decision

**Matter of:** Allegheny Science & Technology Corporation

**File:** B-421699; B-421699.2

**Date:** September 1, 2023

---

Gordon N. Griffin, Esq., Hillary J. Freund, Esq., Kelsey M. Hayes, Esq., and Richard J. Ariel, Esq., Holland & Knight LLP, for the protester. Shlomo D. Katz, Esq., Kenneth B. Weckstein, Esq., and Andrew C. Crawford, Esq., Brown Rudnick LLP, for Energy Technology Alliance LLC, the intervenor. H. Jack Shearer, Esq., Greta Iliev, Esq., Marianna Lvovsky, Esq., and Nicholas Bidwell, Esq., Department of Energy, for the agency. Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### DIGEST

Protest that agency miscalculated quotations for multiple award schedule blanket purchase agreement is denied where the record shows that the technical evaluation was reasonable and consistent with the solicitation and where a miscalculation in the vendors' total evaluated prices was not prejudicial due to the protester's significantly higher price.

---

### DECISION

Allegheny Science & Technology Corporation, of Bridgeport, West Virginia, a small business, protests the establishment of a blanket purchase agreement (BPA) under the General Services Administration's (GSA) Federal Supply Schedule (FSS) to Energy Technology Alliance, LLC (ETA), of Redmond, Oregon, also a small business. The Department of Energy issued the BPA under request for quotations (RFQ) No. 89243423QEE000093, for scientific, engineering, and technical support (SETS) services for the agency's Office of Energy Efficiency and Renewable Energy, primarily in Washington, D.C. and Golden, Colorado. Agency Report (AR), Tab A.4, RFQ amend. 2 at 16. Allegheny argues that the agency miscalculated both firms' quotations and made an unreasonable source selection decision.

We deny the protest.

## BACKGROUND

The RFQ sought quotations from women-owned small businesses holding federal supply schedule contracts under the Professional Services--Engineering Services North American Industry Classification System (NAICS) code 541330EMI. The RFQ anticipated the establishment of a single fixed-price BPA for a base year and four option years, and indicated that the acquisition would be conducted under Federal Acquisition Regulation (FAR) section 8.405. AR, Tab A.4, RFQ amend. 2 at 1, 13. The accompanying performance work statement (PWS) described the scope of the agency's requirement in 19 service areas. AR, Tab A.2, RFQ attach. 1, PWS at 2.

The RFQ provided that the evaluation of quotations would use three factors, listed in descending importance: technical approach; relevant experience and transition plan; and price. The technical approach factor was organized into two elements: management capabilities, and staffing plan; these two elements would be rated together. AR, Tab A.4, RFQ amend. 2 at 42, 45. The evaluation would rate quotations under the two non-price factors using adjectival ratings expressed as a level of confidence that the vendor would successfully perform the work: substantial confidence, satisfactory confidence, or low confidence. *Id.* at 47.

The RFQ also specified that pricing information in the form of hourly labor rates for individual labor categories in each year of performance should be submitted using an attached labor rate pricing spreadsheet. The spreadsheet provided estimated hours for each labor category for the purpose of the price evaluation. The RFQ also directed vendors to "provide matching labor category descriptions, including education, qualifications, and certifications, EXACTLY as stated in their Schedule contract (no variations from Schedule contract labor categories and associated position descriptions)." *Id.* at 40.<sup>1</sup> Finally, the RFQ provided that total evaluated prices would include pricing for an optional 6 months of services under FAR clause 52.217-8, which would be calculated by adding "50 [percent] of the dollar amount of the last full year of the period of performance." *Id.* at 47.

Energy received quotations from three vendors, including ETA and Allegheny.<sup>2</sup> ETA is a small business mentor-protégé joint venture between Boston Government Services, LLC, which is currently the incumbent support contractor, and Lindahl Reed, Inc., which is a subcontractor on the incumbent contract. Allegheny is also a major subcontractor to the current incumbent contractor (Boston Government Services) for these services, and was previously the prime contractor from 2014 to 2020 under an earlier contract and a subsequent interim or "bridge" contract for these services. Protest at 24; Combined Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 6.

---

<sup>1</sup> The RFQ included a position description and minimum qualifications for each labor category. AR, Tab A.2, RFQ attach. 3, Position Descriptions at 23-42.

<sup>2</sup> The third vendor's evaluation is not relevant to the protest issues and is not discussed further.

Three evaluators independently assessed each quotation and did not prepare a consensus report of their views; instead the contracting officer, who served as the source selection authority (SSA) reviewed the separate ratings and narrative comments from each evaluator. Those individual adjectival ratings, along with the evaluated prices, were as follows:

	<b>Allegheny</b>	<b>ETA</b>
<b>Technical Approach</b>		
Evaluator 1	Satisfactory Confidence	Substantial Confidence
Evaluator 2	Substantial Confidence	Substantial Confidence
Evaluator 3	Low Confidence	Substantial Confidence
<b>Relevant Experience &amp; Transition Plan</b>		
Evaluator 1	Substantial Confidence	Substantial Confidence
Evaluator 2	Substantial Confidence	Substantial Confidence
Evaluator 3	Substantial Confidence	Substantial Confidence
<b>Total Evaluated Price</b>		
	\$189,832,538	\$126,014,817

AR, Tab D.7, Best-Value Determination at 7, 24.

The SSA then prepared a best-value tradeoff decision based on what the SSA described as the “most pertinent evaluator comments” from the individual evaluations. *Id.* at 8. The SSA determined that Allegheny’s quotation should be rated satisfactory confidence under the technical approach factor, while ETA’s should be rated substantial confidence. Under the relevant experience and transition plans factor, the SSA rated both quotations as substantial confidence, and also determined that ETA’s quotation was the most highly rated overall. *Id.* at 24.

Next, the SSA reviewed the vendors’ pricing spreadsheets and noted both the range by which each firm’s prices escalated in the option years and the range of discounts that each had proposed from their base multiple award schedule rates. *Id.* at 25. The SSA then compared both vendors’ labor rates for each labor category to an average rate for the labor category among all schedule contractors, as provided by GSA. *Id.* The comparison showed that all of ETA’s rates were below the average, as were most of Allegheny’s rates. *Id.* at 26. Based on that analysis and the presence of adequate competition, the SSA determined that all prices were fair and reasonable.<sup>3</sup> *Id.*

After observing that ETA’s quotation was thus both higher-rated technically and lower-priced, the SSA concluded that it represented the best value. *Id.* at 26-27. Energy

---

<sup>3</sup> An ordering activity is responsible for making this determination when using competitive procedures to establish a schedule BPA for services requiring a statement of work that are priced at hourly rates. FAR section 8.405-3(b)(2)(vi); see also FAR section 8.405-3(a)(7)(viii).

notified Allegheny in writing that the SSA had selected ETA's quotation and the agency summarized the evaluation of Allegheny's quotation. This protest followed.

## DISCUSSION

Allegheny's protest raises multiple challenges to the evaluation of quotations under the technical approach factor, as well as the price evaluation and the source selection rationale. Before turning to the merits, we address specific grounds that Energy and ETA argued should be dismissed.

### Requests for Partial Dismissal

Energy and ETA request dismissal of two grounds raised in Allegheny's protest. First, Allegheny argues that it was improper to establish the BPA with ETA because ETA should never have been awarded an FSS contract. Allegheny's protest contends that ETA was founded in 2022, which was too recently for it to have acquired the minimum experience that the schedule solicitation required. Energy and ETA seek dismissal by arguing that this ground of protest is an untimely challenge to the award of the multiple award schedule contract, and should thus be dismissed. Req. for Partial Dismissal at 3.

Allegheny responds that its protest is timely because it challenges the validity of the BPA, and does not directly challenge the award of ETA's schedule contract. Protester's Resp. to Req. for Partial Dismissal at 2-3. The firm contends that the facts show that ETA's schedule contract is invalid or void because ETA lacked the minimum experience required and, as a result, its challenge to the establishment of the BPA under the schedule contract was a valid protest issue. *Id.*

Setting aside the timeliness arguments, as a schedule holder itself, Allegheny is not an interested party to challenge the award of the same contract to another firm such as ETA. As a general matter, where a solicitation contemplates multiple awards, another awardee of the same contract is not an interested party to challenge the award of that contract to another firm. *National Air Cargo Grp., Inc.*, B-411830.2, Mar. 9, 2016, 2016 CPD ¶ 85 at 4. In this regard, the objective of our Office's bid protest function is to ensure full and open competition, so generally we will not review a protest that has the purpose or effect of reducing competition to the benefit of the protester. *Ingersoll-Rand Co.*, B-236495, Dec. 12, 1989, 89-2 CPD ¶ 542 at 4. A challenge to the award of an underlying task order contract, which was the basis for the successful vendor's ability to compete, effectively amounts to a protest that has the purpose or effect of reducing competition to the benefit of the protester. As a general rule, our Office does not consider such arguments as stating a valid basis for protest. *Morpho Detection, Inc.*, B-410876, Mar. 3, 2015, 2015 CPD ¶ 85 at 7 n.4.<sup>4</sup> Therefore we dismiss the protester's allegation challenging the award of ETA's underlying FSS contract.

---

<sup>4</sup> This principle is distinct from circumstances where we have recognized that a firm that does not hold the underlying task order contract is able to raise a valid protest, such as

Next, Energy and ETA request dismissal of the protesters' argument that the awardee would not comply with the requirements of the Service Contract Act and associated wage determination,<sup>5</sup> because its price was allegedly too low. The requesters contend that the RFQ did not require Energy to evaluate whether a quotation's price was sufficient to meet the vendor's Service Contract Act obligations. They also argue that proposing a low price does not constitute evidence that the firm will fail to comply with the contract requirements, and that this ground of Allegheny's protest is thus factually unsupported and based on speculation. Intervenor's Req. for Dismissal at 2.

Allegheny responds that the RFQ stated that Energy would assess the level of confidence that a vendor would perform successfully, and it also specified that the successful vendor would be required to comply with the Service Contract Act in carrying out orders issued under the BPA. Protester's Resp. to Intervenor's Req. for Dismissal at 2. Taken together, Allegheny contends that Energy was therefore required to assess whether a vendor would comply with the Service Contract Act, and would have to conclude that ETA's low price showed there was "no way" that the firm would comply. Allegheny maintains that those allegations were sufficient to constitute a valid protest. *Id.* at 3.

Our Bid Protest Regulations, 4 C.F.R. § 21.1(c)(4) and (f), require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient. These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. *Midwest Tube Fabricators, Inc.*, B-407166, B-407167, Nov. 20, 2012, 2012 CPD ¶ 324 at 3. A low price does not constitute evidence that a responsible vendor intends to violate the Service Contracting Act. *Science Applications Int'l Corp.*, B-419961.3, Feb. 10, 2022, 2022 CPD ¶ 59 at 16 (evidence that awardee's fringe benefit rate was below the minimum required under the Service Contract Act did not provide a basis to sustain protest given awardee's general agreement to comply with the Act). As we explained in the *Science Applications International Corporation* decision, on a fixed-

---

where it alleges that the contract includes work that had to be set aside for small businesses. See *Oracle Am., Inc.*, B-420181, Nov. 30, 2021, 2021 CPD ¶ 378 at 7 (discussing *LBM, Inc.*, B-290682, Sept. 18, 2002, 2002 CPD ¶ 157).

<sup>5</sup> The RFQ included a clause labeled DOE-H-2057, Department of Labor Wage Determinations-Alternate I (Oct 2014), which provided:

The Contractor's performance under each individual Task and/or Delivery Order issued pursuant to this contract shall comply with the requirements of the U.S. Department of Labor Wage Determination(s) located in Section J, Attachment numbers 3 and 4 of each individual Task and/or Delivery Order, and the clause at FAR 52.222-42, Statement of Equivalent Rates for Federal Hires.

AR, Tab A.4, RFQ amend. 2 at 24.

price contract, a proposal may offer labor rates that are less than the Service Contract Act-specified rates and, unless it takes exception to the solicitation's Act's provisions, it may simply constitute a permissible below-cost offer. *Id.* at 14. Allegheny's protest does not provide a factual basis to allege that ETA's quotation took exception to compliance with the Service Contract Act requirement. Therefore, we dismiss Allegheny's argument that ETA's low price showed that it would not comply with the Service Contract Act.

## Technical Evaluation and Source Selection Decision

The remaining issues raised in Allegheny's protest contend that Energy miscalculated quotations and made an unreasonable source selection decision. Although the evaluators did not create a single consensus evaluation, as noted above, the SSA reviewed the three individual evaluators' ratings and their comments and prepared a best-value decision that explained the SSA's view of the overall evaluations of each quotation and determined that ETA's quotation provided the best value. Allegheny argues that, in multiple instances, the record shows that the SSA's judgment was unreasonable and treated the two firms unequally.

In reviewing a challenge to the evaluation of quotations under the multiple award schedule, our Office will not reevaluate quotations, but will examine the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation. *Systematic Mgmt. Servs., Inc., B-407199 et al.*, Nov. 29, 2012, 2013 CPD ¶ 155 at 3. Our analysis begins with Allegheny's initial broad challenge to the lack of a single consensus technical evaluation.

Allegheny initially argues that the agency's failure to create a consensus technical evaluation constitutes a failure to adequately document the evaluation record. Supp. Protest at 1-3. However, as Energy notes, the source selection procedures contemplated under FAR section 8.405 provide for streamlined evaluation and documentation, and do not expressly require that an evaluation record from multiple evaluators be reduced to a single consensus view. If the record otherwise documents the source selection official's judgments and reflects a fair and reasonable assessment of the separate evaluations and is consistent with the solicitation, we see no requirement that an agency also provide a consensus evaluation for the SSA.

Next, Allegheny challenges the SSA's judgment in selecting from among the individual evaluations those comments that were pertinent to the best-value determination. The protester argues that the record shows multiple instances of unreasonable evaluation judgment and disparate treatment that favored ETA over Allegheny. As explained below, we find that the record as a whole supports the reasonableness of the SSA's judgment. We review several illustrative examples.

Allegheny's challenges arise from the way the SSA used the three separate evaluations to make a best-value determination. The best-value decision identified aspects of the technical approach evaluation that were pertinent to each vendor's rating, and grouped the comments by the level of confidence that the SSA felt the comment reflected. For

Allegheny, six comments from the evaluators were identified as showing substantial confidence, one was identified as satisfactory confidence, and four that were identified as low confidence.<sup>6</sup> Considering those comments together, the SSA's judgment was that Allegheny's quotation merited a rating of satisfactory confidence under the technical approach factor. AR, Tab D.7, Best-Value Determination at 8-9. Similarly, for ETA, 10 comments were identified as showing substantial confidence, two were identified as satisfactory confidence, and one was identified as low confidence. *Id.* at 13-15. Allegheny argues that the SSA's failure to consider or discuss many other comments identified in the evaluations was arbitrary and cannot sufficiently explain a blanket assertion that these other comments were not pertinent to the overall best-value determination.

Energy responds that the SSA's evaluation judgments in determining which aspects of each evaluation were pertinent to the source selection decision were reasonable, and that Allegheny's objections amount to mere disagreement with that judgment, which does not provide a basis to sustain the protest. To the extent the SSA did not discuss any specific item identified by an individual evaluator, the agency contends that the SSA used reasonable judgment to choose which aspects to discuss in the best-value determination, and was not required to discuss every strength and weakness identified by the evaluators. COS/MOL at 29. Further, the agency argues that the SSA "was not required to conduct a tradeoff in this instance, and therefore there was no need to perform a point-by-point comparison of the specifics of each approach." *Id.* at 78-79.

In our view, the record shows that the SSA reasonably exercised evaluation judgment in determining what technical rating to apply to each vendor, and discussed the most relevant comments that were used to reach that judgment. The SSA's judgment ultimately supported rating ETA's quotation as superior to Allegheny's. As illustrated by the examples below, the record supports the agency's argument that the SSA reasonably and fairly assessed the evaluations of each quotation and adequately documented which aspects of those evaluations were pertinent to the source selection.

First, under the technical approach factor, one evaluator made a positive comment that Allegheny's performance as the prime contractor on the previous contract and bridge contract provided Allegheny with

direct experience performing the same type of work . . . of the same scale, scope, and complexity. This positions them positively in having direct, firsthand awareness and understanding of the SETS scope, [agency] Mission, and complexity, and as a result, offers immediate benefit to the

---

<sup>6</sup> Although an exact methodology is not explained, it appears that the confidence designation of a comment mostly indicated the overall adjectival rating by the evaluator whose comment the SSA selected, although the decision also acknowledges that "in some instances . . . the [SSA] changed the [c]onfidence classification of the evaluator comments to more accurately reflect its content." AR, Tab D.7, Best-Value Determination at 8.

government in that the offeror currently has systems, processes, and people in place to address requirements, communicate with key stakeholder, manage risks, and deliver successful results timelier and efficiently.

AR, Tab D.3, Technical Evaluation of Allegheny (Evaluator 3) at 1.

Allegheny argues that the SSA's omission of this comment from the best-value decision, and inclusion of a similar comment about ETA's quotation from the same evaluator, demonstrates unequal treatment. Specifically, among positive aspects identified in the best-value decision ETA's quotation was that its joint venture

includes BGS [Boston Government Services], the current prime contractor performing the [incumbent contract] PWS at its current peak of scale, scope, and complexity. This allows them to have direct, firsthand awareness and understanding of the SETS scope and complexity and as a result, offers an immediate benefit to the Government in that ETA currently has systems, processes, and people in place to address requirements, communicate with key stakeholders, manage risks, and deliver successful results timely and efficiently.

AR, Tab D.7, Best-Value Determination at 13-14; AR, Tab D.6, Technical Evaluation of ETA (Evaluator 3) at 1.

Energy argues that the SSA's judgment about the evaluator's comments were reasonable and do not reflect unequal treatment. The agency points out that despite some similarity between the two comments, the evaluator nevertheless rated ETA's quotation substantial confidence under the technical approach factor, and rated Allegheny's low confidence. Energy maintains that this specific comment was not a major factor in the evaluator's overall technical assessment of Allegheny's quotation, and that the SSA reasonably viewed it as not pertinent to the best-value determination. COS/MOL at 28.

In conducting procurements, agencies must even-handedly evaluate proposals, or in this case quotations, against common requirements and evaluation criteria. *American Sys. Corp.*, B-420132 *et al.*, Dec. 13, 2021, 2021 CPD ¶ 387 at 5. To prevail on a claim of unequal treatment in a technical evaluation, a protester must show that the allegedly unequal ratings did not stem from differences between the offerors' proposals (or quotations). *Red Gate Grp., Ltd.*, B-410466.8, May 12, 2017, 2017 CPD ¶ 169 at 6.

Here, the record provides a reasonable basis for the SSA's distinction between the two comments at issue, and does not reflect unreasonable evaluation judgment or unequal treatment. Principally, the comments themselves make distinct observations arising from inherent differences between the two vendors: that Allegheny brings the benefit of awareness and understanding of the scope of the BPA that comes from its role as the prime contractor on an earlier version of the requirement, whereas ETA has the benefit of its minority partner being the incumbent prime contractor that had awareness and



understanding of the current peak of the agency's requirement. The differences in the two comments, based on the differences between the two quotations, dispel Allegheny's unequal treatment claim and support the reasonableness of the SSA's judgment that ETA's comment should be considered in the best-value determination, while Allegheny's did not.

Second, Allegheny argues that the record shows disparate treatment because the same evaluator made a negative comment about Allegheny's quotation that the SSA considered, while the SSA overlooked the same evaluator's assessment of a similar point in the evaluation of ETA's quotation. Supp. Protest at 14. Specifically, the SSA cited a comment from one evaluator that Allegheny's quotation did not "fully explain who, how many, and how the use of subcontractors aligns within the organizational structure and management approach." AR, Tab D.7, Best-Value Determination at 9. The SSA identified this comment to support a rating of "satisfactory confidence" for Allegheny's quotation under the technical approach factor. *Id.* The SSA further explained that the agency's concern was that Allegheny could use more subcontractors than its quotation made apparent, which could then present communication and management challenges. *Id.*

Allegheny argues that the same evaluator noted that three of ETA's team members possessed limited or no experience supporting the agency's Office of Energy Efficiency and Renewable Energy, and that ETA's quotation "d[id] not specify how many staff positions will be filled by these three subcontractors" and the quotation needed to provide more detail on "which areas of the PWS these three subcontractors will be supporting in comparison to ETA and the core Team Members, and how much of the contractor workforce will be made up of staff from the three." AR, Tab D.4, Technical Evaluation of ETA (Evaluator 1) at 3-4.

Energy acknowledges that "[t]he same evaluator made comments about this issue regarding both quoters," but contends that the SSA was reasonable in highlighting the issue for Allegheny while omitting any mention of it for ETA because the two comments raise distinct concerns based on differences in the quotation. COS/MOL at 30. While Energy agrees that the comments on both vendors' quotations addressed the "use of subcontractors in organizational structure and management approach," they were different. Principally, for Allegheny's quotation, a lack of specificity regarding the identity and roles of subcontractors in the quotation pointed to the potential for difficult communication and management challenges. In contrast, the concern over ETA's subcontractors focused on a different and more limited issue: a lack of clarity on the extent to which three identified contractors would fill specific roles. *Id.* As a result the SSA "found the comment regarding [Allegheny] more concerning than that regarding ETA." *Id.* Energy's argues that the SSA was "merely exercise[ing] . . . independent judgment regarding discriminators." *Id.*

Our review of the record supports the reasonableness of the SSA's treatment of these similar criticisms of both vendors' quotations. Despite some similarity in the issues being raised, the comments reflect distinct aspects of the vendors' quotations, and use

different language in explaining the concerns, and do not demonstrate unequal treatment.

Third, one evaluator identified in two separate comments that Allegheny's quotation "demonstrates an adequate approach to hiring with their proposed Rapid Agile Staffing Process" and "proposes a competitive compensation/benefits package to attract and retain top talent." AR, Tab D.3, Technical Evaluation of Allegheny (Evaluator 3) at 3. Allegheny argues that the record again demonstrates disparate treatment because while the SSA did not mention these positive aspects of the evaluation for Allegheny in the best-value decision, the SSA did include a comment for ETA by the same evaluator which the SSA described thus:

ETA substantially demonstrates in [its quotation] the ability to attract and retain high quality staff and be responsive and agile in addressing changing customer needs. Further, the quoter proposes a competitive compensation/benefits package to retain top talent.

AR, Tab D.7, Best-Value Determination at 14.<sup>7</sup>

Energy argues that the different treatment of both comments was reasonable. In particular, Energy notes that ETA's quotation was structured to benefit from teaming among entities performing the incumbent contract, whereas Allegheny's was not, even though the firm is a subcontractor on the incumbent effort. In particular, the record shows that in addition to ETA being a joint venture between the incumbent contractor and one of its incumbent subcontractors, the quotation named "three core incumbent subcontractors," one of which was Boston Government Services. The continued involvement of incumbent firms was intended to bring continuity to supporting the agency's Office of Energy Efficiency and Renewable Energy. AR, Tab C.1, ETA Quotation, vol. 1, at 2. Energy maintains that the SSA reasonably found that this difference was a significant distinction between the level of confidence that the firms' would have in attracting and retaining high quality staff, and properly considered the comment about ETA to be pertinent, but not Allegheny's. COS/MOL at 25.

The difference in the SSA's treatment of Allegheny's and ETA's evaluations on this point is again supported by the differences in the evaluations themselves. It was within the SSA's discretion to assess ETA's teaming with incumbent entities as being relevant to a higher level of confidence in its approach than Allegheny's Rapid Agile Staffing Process and competitive compensation/benefits. The record does not support Allegheny's contention that the SSA's evaluation was unreasonable or treated it unequally.

The protester raises a significant number of additional issues on which comments of greater or lesser similarity were allegedly treated unequally by the SSA. Without

---

<sup>7</sup> The word "substantially" was apparently added by the SSA; it does not appear in the evaluator's comment. AR, Tab D.6, Technical Evaluation of ETA (Evaluator 3) at 3.

discussing each in detail, our review concludes that the record supports the SSA's evaluation judgment as both reasonable and even-handed toward both vendors. As a whole, the record does not indicate that the SSA's best-value determination is unreasonable as a summary evaluation of either quotation; rather it provides a reasonable basis for the subsequent source selection decision.

Allegheny also challenges the reasonableness of the agency assigning a rating of "substantial confidence" to ETA's quotation under the relevant experience and transition plan factor. Because ETA's joint venture is recently formed and the experience of the majority member/protégé involved smaller and less complex work, the protester argues that it was unreasonable for the SSA to have assigned ETA with the same rating as Allegheny under the factor.

We again find this allegation to be without merit. The record demonstrates that the agency's evaluation regarding this factor recognized the limits of ETA's experience but also reasonably considered the benefit of its inclusion of the incumbent prime contractor (as the minority member/mentor) and that the quotation was structured to benefit from teaming with other incumbent firms. AR, Tab D.7, Best-Value Determination at 16-19. The record thus reasonably supports the SSA's judgment that ETA's quotation merited a "substantial confidence" rating under the relevant experience and transition plan factor.

#### Total Evaluated Price

Allegheny also challenges Energy's evaluation of the vendors' prices, contending that ETA's pricing should have been rejected as unbalanced. Protest at 33-34. Specifically, Allegheny argues that the FAR and the RFQ required Energy to assess whether vendors' pricing was unbalanced, *id.*, and that the record shows that "all of ETA's labor category prices were significantly lower than [Allegheny]'s except for seven which are significantly overstated as compared to [Allegheny]'s prices." Protester's Comments at 31.

Allegheny has not shown a legal basis for this ground of protest. As noted above, this procurement was conducted under FAR subpart 8.4, so the agency is not generally bound by FAR section 15.404-1 to analyze individual pricing elements for material unbalancing. Given that the vendors' labor rates are offered at a discount from their schedule rates, which have already been determined fair and reasonable, see FAR § 8.404(d) (GSA has already determined the prices of services under schedule contracts to be fair and reasonable), it is not apparent how ETA's labor rates could be overstated notwithstanding that they may be higher than the protester's own rates. See, e.g., *MSC Indus. Direct Co.*, B-409585, B-409585.4, Jun. 12, 2014, 2014 CPD ¶ 175 at 7. At the same time, the only provision in the RFQ regarding balancing provided that Energy could "determine that a quote is unacceptable if the option prices are significantly unbalanced." AR, Tab A.4, RFQ amend. 2 at 41, 46 (same language repeated). The analysis of individual labor rates that Allegheny argues demonstrates unbalanced pricing by ETA was not required either by regulation or the terms of the RFQ. Accordingly, we dismiss this ground of protest.

In one respect, however, Energy concedes an error in its pricing analysis. Specifically, as mentioned previously, the RFQ provided for the total evaluated prices to include the cost of the optional 6 months of services under FAR clause 52.217-8. As noted above, in addition to the vendors' prices for the base period and four option years the agency was to add "50 [percent] of the dollar amount of the last full year of the period of performance." AR, Tab A.4, RFQ amend. 2 at 47. Energy concedes that its analysis actually added the full dollar amount of the last full year--that is, the cost of 12 months. COS/MOL at 56-57. Energy's recalculation shows that Allegheny's total evaluated price should have been \$173 million (which is \$16 million lower than the SSA used), while ETA's should have been \$115 million (which is \$11 million lower). COS/MOL at 57. Nevertheless, Energy argues that the error was not prejudicial to Allegheny because the same error was made in calculating ETA's total evaluated price, and because the miscalculation was small in comparison to the magnitude of the price difference. *Id.* at 56. Allegheny disagrees, arguing that the error affected its own price more, and since the best-value decision included consideration of a price difference based on the miscalculation, it is invalid. Protester's Comments at 32.

We agree with both Energy and Allegheny that the calculation of total evaluated prices was incorrect. That is, it did not conform to the price evaluation method specified in the RFQ for calculating the cost of the optional 6 months of services. The record is clear, however, that this error did not prejudice Allegheny.

Competitive prejudice is an essential element of a viable protest. We will sustain a protest only where the protester demonstrates that, but for the agency's improper actions, it would have had a substantial chance of receiving the award. *Deloitte Consulting, LLP et al.*, B-411884 *et al.*, Nov. 16, 2015, 2016 CPD ¶ 2 at 18-19. Where an agency reasonably determines that an awardee's submission is superior to the protester's under the non-price evaluation, and the protester fails to show that the correct price evaluation would have made its price lower than the awardee's, the protester has not been prejudiced. *Deloitte & Touche LLP*, B-420038, Oct. 28, 2021, 2021 CPD ¶ 353 at 13.

Our review shows that Allegheny's challenges to the non-price evaluations lack merit and that the agency's evaluation was reasonable. The record supports the SSA's view that ETA's quotation was superior to Allegheny's technically. As a result, the protester has not shown that the comparatively small change in Allegheny's favor if the total evaluated price had been calculated correctly raises a reasonable likelihood that Allegheny's quotation would have been selected for award where it was considered to be technically superior and remained lower priced. The error thus did not result in prejudice to Allegheny.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel