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Decision

Matter of: emissary LLC

File: B-422388.3; B-422388.4

Date: July 29, 2025

Kara L. Daniels, Esq., and Kyung Liu-Katz, Esq., Arnold & Porter Kaye Scholar LLP, for the protester.

Brandon R. Cogswell, Esq., Stephan Piel, Esq., and May Sena, Esq., Department of Defense, for the agency.

Samantha S. Lee, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's evaluation of the awardee's technical proposal is sustained where the evaluation was inconsistent with the solicitation.
2. Protest that awardee misrepresented the availability of key personnel is denied where the record shows the awardee did not have actual knowledge that any of its proposed key personnel had become unavailable.
3. Protest that the evaluation of the awardee's proposal was unreasonable is sustained where the record shows that, to mitigate an organizational conflict of interest, the awardee materially altered its technical approach to perform the contract, and there is no evidence that the agency considered the impact of the changed approach on contract performance.
4. Protest challenging the evaluation of past performance proposals is denied where the protester has not established that the agency unreasonably considered the past performance of separate divisions within the offeror, but sustained where the record demonstrates the agency's evaluation of relevance was not reasonable and consistent with the terms of the solicitation.

DECISION

emissary LLC, a woman-owned small business of Arlington, Virginia, protests the award of a contract to Gemini Industries Inc., a woman-owned small business of Burlington, Massachusetts, under request for proposals (RFP) No. HQ0034-23-R-0290, issued by

the Department of Defense, Washington Headquarters Services (WHS) for technical support services.¹ The protester challenges the agency's evaluation of proposals and resulting source selection decision.

We sustain the protest.

BACKGROUND

The Office of the Assistant Secretary of Defense (OASD) for Special Operations/Low-Intensity Conflict (SOLIC) serves as the principal civilian advisor to the Secretary of Defense on special operations matters and is responsible for providing the overall supervision of special operations activities. Agency Report (AR), Tab 13, RFP at 3.² With this RFP, the agency sought proposals to provide technical support services to OASD SOLIC, providing personnel able to "[p]rioritize and multi-task effectively in a fast-paced, high pressure, national security organization" while providing technical and programmatic analysis and support for development of policy, planning, and strategy through, among other efforts, written work product and providing of technical expertise. *Id.* at 3-4. In short, the solicitation sought support services for legislative and program analysis, policy and planning, and communications. *emissary* is the incumbent provider of these services. Protest at 7.

The agency issued the RFP on August 9, 2023, as a small business set-aside, pursuant to the procedures of Federal Acquisition Regulation (FAR) part 15. RFP at 1, 82. The solicitation contemplated the award of a single labor-hour type contract with a 1-month phase-in period, an 11-month base period, and four option years. *Id.* at 5. Award was to be made on a best-value tradeoff basis considering the following evaluation factors: (1) technical methodology (technical); (2) past performance; and (3) price.³ *Id.* at 90. The past performance factor was more important than the technical factor; the non-price factors, when combined, were significantly more important than the price factor. *Id.*

Under the technical evaluation factor, the agency would evaluate an offeror's proposed approach to the following elements: management and staffing approach, phase-in plan, and key personnel resumes. *Id.* at 90-91. Based on the assessments of those elements, the RFP provided that a combined technical/risk rating--of outstanding, good, acceptable, marginal, or unacceptable--would be assigned to proposals under the technical factor. *Id.* Under the past performance factor, the RFP provided for the consideration of recency, relevance, and quality of up to three contract references, and the assignment of a rating of substantial, satisfactory, neutral, limited, or no, confidence.

¹ *emissary* uses all lowercase letters for the firm's name.

² Citations to the record refer to the documents' internal Adobe PDF pagination. Reference to the RFP is to the conformed version at tab 13 of the agency report.

³ First, the agency was to assess proposals as compliant (*i.e.*, containing all required information) or non-compliant, and pass/fail based evidence of an active top secret facility clearance. RFP at 89. These initial assessments are not at issue in the protest.

Id. at 91-92. Price was to be evaluated for completeness, balance, and reasonableness. *Id.* at 93.

The agency received five timely proposals by the deadline of August 25. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 4. Based on the initial proposals, the agency established a competitive range, conducted discussions, and received final proposal revisions. *Id.* On February 14, 2024, WHS made award to Gemini. *Id.* Following notification of the award, emissary filed a protest with our Office, challenging the agency's evaluation and award decision and alleging that Gemini suffered from an organizational conflict of interest (OCI). *emissary LLC*, B-422388, Mar. 13, 2024 (unpublished decision). In response, the agency advised our Office that it intended to take corrective action; specifically, the agency stated that it would reevaluate proposals, investigate the alleged OCI, and make a new source selection decision. *Id.* We dismissed the protest as academic on March 13. *Id.*

Subsequently, the agency investigated Gemini's potential for OCIs. As part of the investigation, the contracting officer requested an OCI mitigation plan from Gemini and then ultimately requested revisions to that plan. COS/MOL at 5-7. On August 30, WHS notified emissary that the agency had again awarded the contract to Gemini. *Id.* at 7. emissary filed another protest, again challenging the agency's evaluation and award decision and alleging that the awardee had an OCI. *emissary LLC*, B-422388.2, Oct. 21, 2024 (unpublished decision). In response, the agency again took corrective action; this time, WHS proposed to reevaluate proposals, reinvestigate the OCI allegations and consider the OCI mitigation plan, and make a new award decision. *Id.* We dismissed the protest as academic on October 21. *Id.*

As part of the second corrective action, the agency issued amendment 4 to the solicitation to allow offerors to confirm or replace their proposed key personnel and revise proposed prices, to the extent any prices were impacted by changes to key personnel. AR, Tab 9a, RFP amend. 4. Following receipt of responses to the amendment, the agency reevaluated proposals; the contracting officer, who also served as the source selection authority (SSA), summarized the evaluation of proposals as follows:

	emissary	Gemini
Technical	Outstanding	Outstanding
Past Performance	Substantial Confidence	Substantial Confidence
Price	\$11,868,374	\$9,989,226

AR, Tab 49, Source Selection Decision Document (SSDD) at 4. On March 28, 2025, the SSA found Gemini's proposal represented the best value. *Id.* at 18. After receiving notice of the award decision and a debriefing, emissary filed this protest.

DISCUSSION

emissary raises several challenges to the agency's evaluation and award decision. For the reasons discussed below, we sustain the protester's challenges to the evaluation of Gemini's proposal under the technical and past performance factors, as well as the resulting tradeoff decision. While we do not discuss every issue and associated argument raised by emissary, we have considered them all and find no additional basis on which to sustain the protest.

Technical Evaluation

The protester challenges numerous aspects of the evaluation of the awardee's proposal and its own proposal under the technical evaluation factor. Protest at 22-43. Below, we address the gravamen of emissary's arguments under each element of the factor.

Management and Staffing Approach Element

First, the protester argues that the agency incorrectly credited the awardee's proposal for hewing exactly to the labor approach set forth in the performance work statement (PWS), when in fact the awardee's proposal differed from the PWS labor significantly. Comments & Supp. Protest at 29-33. For the management and staffing approach element of the technical factor, offerors were required to "submit a detailed management and staffing approach that describes labor categories with at least the minimum required descriptions in accordance with the PWS and an appropriate labor mix." RFP at 86. The agency would evaluate the extent to which an offeror's proposal reflected a detailed methodology to the work. *Id.* at 90.

In evaluating Gemini's proposal, the evaluators specifically addressed the proposed "labor mix." AR, Tab 43, Technical Evaluation Board (TEB) Report at 8. The evaluators found that Gemini "submitted the exact labor mix, hours, and labor categories as described in the PWS," and reflected in a table of the task and labor category requirements. *Id.* This finding contributed to the assessment of an overall adjectival rating of "good" by the TEB. *Id.* at 7. The SSA concurred with this finding and ultimately assigned an adjectival rating of "outstanding" to Gemini's technical factor overall. AR, Tab 49, SSDD at 4, 6.

emissary argues that the agency's conclusion in this regard was unreasonable because Gemini did not, in fact, propose the exact labor mix, hours, and labor categories set forth in the PWS. Comments & Supp. Protest at 29-33. The agency does not deny that the statement was in error but, nevertheless, urges that we deny the protest allegation because the conclusion was not material to the selection decision. Supp. COS/MOL at 17-25.

It is a fundamental principle that an agency must evaluate proposals in a manner consistent with the terms of the solicitation and, while the evaluation of offerors' proposals generally is a matter within the procuring agency's discretion, our Office will

question an agency's evaluation where it is unreasonable, inconsistent with the solicitation's stated evaluation criteria, or undocumented. *Exelis Sys. Corp.*, B-407111 *et al.*, Nov. 13, 2012, 2012 CPD ¶ 340 at 5; *Public Commc'ns Servs., Inc.*, B-400058, B-400058.3, July 18, 2008, 2009 CPD ¶ 154 at 17. Further, where an agency fails to document its evaluation or retain evaluation materials, it bears the risk that there may not be adequate supporting rationale in the record for GAO to conclude that the agency had a reasonable basis for the source selection decision. *System Rsch. & Applications Corp.; Booz Allen Hamilton, Inc.*, B-299818 *et al.*, Sept. 6, 2007, 2008 CPD ¶ 28 at 12.

Here, the PWS included a "workload data" exhibit that identified each PWS task with labor category, quantity, and hours information for the phase-in, base year, and option years. RFP at 26-29. That exhibit was based on the expectation of award of a contract with a 30-day transition (or "phase-in") period, an 11-month base year, and options years. *Id.* Gemini's proposal, however, reflected a 9-month base period of performance after the phase-in period. AR, Tab 21c, Gemini Technical Proposal at 8-9. Additionally, while Gemini's proposal reflected a 30-day phase-in period, the firm proposed fewer hours during that phase-in. *Id.* at 8.

The agency acknowledges that the evaluators and the SSA incorrectly concluded that Gemini's proposal matched exactly the workload data in the PWS. Supp. COS/MOL at 23-25. WHS, however, argues that this error doesn't matter because the "solicitation did not contemplate vendors proposing their own amounts of hours of labor" and the "reference to 'hours' is nothing more than a stray word." *Id.* at 17-23. The agency explains that the distinction between the 11-month and 9-month base period is based on changes to the agency's requirements during the course of multiple protests under this solicitation. *Id.* at 22.

The problem, as emissary points out, is that the solicitation did call for the evaluation of the proposed labor mix to determine whether it was appropriate to meet the solicitation's requirements. RFP at 90 ("The Management & Staffing Approach will be evaluated to determine the extent to which the Offeror's approach reflects a detailed methodology, including a descriptive labor categories and labor mix in accordance with the PWS, to accomplish the tasks listed in Part 5 of the PWS . . ."). Thus, we are left with a contemporaneous record that reflects the agency evaluated and credited the awardee's proposal based on an admittedly incorrect determination that Gemini had "submitted the exact labor mix, hours, and labor categories as described in the PWS." AR, Tab 43, TEB Report at 8. Instead, the record reflects that Gemini's proposed staffing level is missing two months of contract performance for the base period. Consequently, we find the agency's evaluation of Gemini's technical proposal under this element to be unreasonable. *Global Patent Sols., LLC*, B-421602.2, B-421602.3, Feb. 23, 2024, 2024 CPD ¶ 32 at 11-12.

Phase-In Plan Element

The protester next argues that the agency failed to evaluate proposals for the initial phase-in plan element on a qualitative basis. Comments & Supp. Protest at 33-35. As

noted, the solicitation provided for a 30-day transition period at the start of the contract, and the RFP required a phase-in plan “to become fully functional within the 30 calendar days to begin full performance on the first day of the base period of performance.” RFP at 86. The RFP provided for the phase-in plan to be evaluated “on the extent to which the Offeror’s plan is determined to demonstrate detailed methods the Offeror will implement to become fully functional” within the allotted time. *Id.* at 91.

In emissary’s proposal, the firm explained that it was “uniquely positioned to continue providing essential policy support to the SOLIC mission on Day One.” AR, Tab 16a, emissary Technical Proposal at 10. The proposal specified that “[DELETED]” were presently performing under the incumbent effort. *Id.* Gemini, on the other hand, presented its plan to “become fully functional within the one month transition period,” providing a detailed schedule that provided for assuming full responsibility on day 30. AR, Tab 21c, Gemini Technical Proposal at 12-13.

The agency found emissary’s proposed phase-in approach to be adequate. AR, Tab 43, TEB Report at 36. The evaluators recognized that emissary was the incumbent, [DELETED]. *Id.* at 37. The agency also found that Gemini’s phase-in plan was adequate, praising Gemini for proposing to “prioritize getting the three (3) Key Personnel billets filled and functioning during the transition period.” *Id.* at 9.

emissary asserts that the agency unreasonably ignored the clear benefits of the protester’s proposed phase-in plan, in which emissary expressed that it had [DELETED] and ready to perform on the first day. Comments & Supp. Protest at 33-35. Gemini, by contrast, proposed to “prioritize” key personnel and be prepared to begin performance on the 30th day. AR, Tab 21c, Gemini Technical Proposal at 12-13. In the protester’s view, by characterizing both emissary’s and Gemini’s proposals as adequate for the phase-in plan, WHS failed to consider this key discriminator in the agency’s evaluation. Comments & Supp. Protest at 33-35.

As noted above, the TEB found both offeror’s phase-in plan to be “adequate.” AR, Tab 43, TEB Report at 36. According to WHS, it was reasonable for the evaluators to find “that Gemini and Protester have equally good phase-in plans,” and that there was no requirement that an incumbent be given extra credit for its status as an incumbent. COS/MOL at 29, 30-31. We disagree.

emissary’s argument, here, is not that the agency failed to afford the protester extra credit because it was the incumbent. Rather, the protester’s contention is that the agency failed to qualitatively evaluate offerors’ phase-in plans, and that, having neglected to perform the required evaluation, WHS’s source selection did not consider the advantages of emissary’s proposed plan. Our review of the contemporaneous evaluation finds that the record does not support the agency’s assessment. The RFP provided for the phase-in plan to be evaluated “on the extent to which the Offeror’s plan is determined to demonstrate detailed methods the Offeror will implement to become fully functional” within the allotted time. *Id.* at 91. Where a solicitation indicates that the agency will evaluate the “extent” a proposal meets a particular requirement, offerors can

reasonably expect that a proposal exceeding the agency's minimum requirements will garner a more favorable evaluation than one that merely meets the requirements. See *Logistics 2020, Inc.*, B-408543, B-408543.3, Nov. 6, 2013, 2013 CPD ¶ 258 at 2, 5-7 (protest is sustained where solicitation required evaluation of "the extent that" proposals met the agency's requirements).

In this respect, WHS failed to document a qualitative evaluation of the offerors' proposals for the phase-in plan and instead evaluated the factor on what amounts to a pass/fail basis where it considered nothing more than the adequacy of the offerors' plans. For example, emissary proposed to employ personnel who were all qualified and prepared to begin performing on the first day of the phase-in period; Gemini, by contrast, proposed to prioritize securing and deploying its three key personnel early in the phase-in period and implement a plan for performance by the final day of the 30-day phase-in period. AR, Tab 16a, emissary Technical Proposal at 10; AR, Tab 21c, Gemini Technical Proposal at 12-13. The agency found both approaches adequate, even though emissary's approach exceeds the stated requirements and Gemini's only meets them. See AR, Tab 43, TEB Report at 36. Because the solicitation required a qualitative evaluation, the agency erred by failing to document a qualitative assessment of the offerors' phase-in plans. *ITility, LLC*, B-421871.3, B-421871.4, May 3, 2024, 2024 CPD ¶ 102 at 8-9 (finding agency's evaluation of transition plan unreasonable where the record did not reflect a qualitative evaluation as required by the solicitation).

Key Personnel Element

The RFP also required offerors to propose the following three key personnel: (1) senior legislative analyst; (2) senior special ops training, exercise, education and readiness analyst; and (3) strategic communications analyst. RFP at 7-9. Offerors were to include resumes for proposed key personnel that evidenced how the proposed personnel met or exceeded the required qualifications in the PWS and also were to include "signed statement[s] signifying acceptance of a contingent offer of employment and acknowledgement of support of the Offeror's offer." *Id.* at 86. According to the RFP, WHS would evaluate the proposed key personnel resumes for the minimum requirements, and "[f]ailure to meet the minimum qualifications listed" in the PWS would "result in a deficiency." *Id.* at 91.

Availability of Key Person

The protester challenges the availability of one of the awardee's proposed key personnel. emissary alleges that Gemini "changed its Senior Legislative Analyst prior to award yet did not notify the Agency of this material change until after award, rendering the technical evaluation and selection decision unreasonable." Comments & Supp. Protest at 15-16. The agency contends that Gemini's proposed senior legislative analyst is "committed" and available, and that the protester has not shown otherwise. COS/MOL at 22-27.

When, as here, a solicitation requires resumes for key personnel, the resumes form a material requirement of the solicitation. *YWCA of Greater Los Angeles*, B-414596 *et al.*, July 24, 2017, 2017 CPD ¶ 245 at 4. Offerors are obligated to advise agencies of changes in proposed resources to satisfy material requirements, even after submission of proposals, including if an individual proposed for a key personnel position is no longer available. *Chenega Healthcare Servs., LLC*, B-416158, June 4, 2018, 2018 CPD ¶ 200 at 3 n.2. The duty to notify does not arise, however, if an offeror does not have actual knowledge of the employee's unavailability. *Ashlin Mgmt. Grp.*, B-419472.3, B-419472.4, Nov. 4, 2021, 2021 CPD ¶ 357 at 4-5. When an agency is notified of the withdrawal of a key person, the agency cannot proceed with award to that proposal. *M.C. Dean, Inc.*, B-418553, B-418553.2, June 15, 2020, 2020 CPD ¶ 206 at 4. Instead, the agency has two options: either reject the proposal as technically unacceptable for failing to meet a material requirement, or open discussions with all remaining vendors to permit proposal revisions. *Id.*

The record shows that Gemini proposed an employee who we refer to as "R" for the senior legislative analyst position in its final proposal revision submitted in November 2024. AR, Tab 21c, Gemini Technical Proposal at 15-17. The resume reflected that R, at the time, was employed by the Department of State, and included a statement that R had "accepted Gemini's contingent offer of employment as the *Senior Legislative Analyst - SOLIC External Affairs*, a full-time Key Personnel position." *Id.* at 16-17. The protester alleges that "public information" reflects that R "took a position with another company in March 2025," providing a LinkedIn⁴ profile that shows R's position at the Department of State ended in 2024, and R began working for a private company in March 2025. Comments & Supp. Protest at 16; *id.*, Exh. 1, LinkedIn Profile.

On April 1, 2025, the agency notified Gemini that the firm had been selected for contract award. AR, Tab 47, Notice of Award. On April 14, Gemini submitted a request to substitute a new candidate who we refer to as, "H," for the senior legislative analyst position. AR, Tab 50, Email from Gemini at 1. In that request, Gemini did not refer to R. *Id.* Instead, Gemini wrote that "[d]ue to the extended duration of the contract protest decision, our originally proposed candidate ["N"] has accepted other employment." *Id.* Relevant here, the individual identified in the email to be replaced by H was not R but rather N, a different individual altogether. The agency did not respond Gemini's email. COS/MOL at 9.

On April 21, emissary filed this protest, which included allegations regarding the availability of key personnel. Protest at 23-30. The agency explains, "[s]ince one of the allegations related to key personnel, and because Gemini requested approval to substitute its key personnel on April 14, 2025, on April 29, 2025, [the contracting officer] asked Gemini whether they could confirm the continued commitment of their key personnel." COS/MOL at 9. On May 1, Gemini responded that it had confirmed the availability and commitment of R for the senior legislative analyst position. AR, Tab 51.1, Emails between Gemini and Agency at 3.

⁴ LinkedIn is a social media platform for professional networking.

According to the protester, this reveals that Gemini knew that its proposed senior legislative analyst had become unavailable before award. Comments & Supp. Protest at 16-17. emissary alleges that, rather than notify the agency:

Gemini substituted another individual in [R's] place--[N]--and then 13 days after award, advised the Contracting Officer of [N's] unavailability, claimed erroneously that [N] was the originally proposed key person, and asked the Agency to permit replacement with a third candidate.

Id. at 16.

Here, we cannot conclude that Gemini had actual knowledge that R was unavailable prior to award of the contract. First, even if “public information” reflects that R changed jobs in March 2025, that information alone does not demonstrate that R was no longer available, or that Gemini was aware of such unavailability. At the time of proposal submission, R was not employed by Gemini but only provided a statement of acceptance of Gemini’s contingent offer. See AR, Tab 21c, Gemini Technical Proposal at 15-17. There is no evidence in the record that R revoked this commitment prior to award. A proposed key person’s acceptance of a new position is not necessarily determinative of such person’s unavailability, especially where, as here, that person is not an employee of the offeror at the time of proposal submission. *Magellan Fed., Inc.*, B-422803, B-422803.2, Nov. 13, 2024, 2024 CPD ¶ 270 at 8.

Second, the record does not reflect that Gemini replaced R with N during the pendency of the proposal. Although, Gemini’s post-award request to substitute an individual refers to N, this appears to be a mistake, rather than a secret replacement of the individual. In this connection, during the corrective action in response to Gemini’s first protest, the agency amended the solicitation to remove certain requirements and requested proposal revisions. AR, Tab 8, Email to emissary. In the awardee’s May 2024 proposal revision, Gemini had proposed N for the senior legislative analyst position. AR, Tab 67, Gemini May 2024 Technical Proposal at 15-17. As part of the corrective action in response to emissary’s second protest, the agency requested final revised proposals. In Gemini’s November 2024 revised proposal, the firm had removed N, and proposed R for the position. AR, Tab 21c, Gemini Technical Proposal at 15-17. Thus, Gemini’s reference to N appears to be a mistaken reference to an earlier proposed candidate, rather than evidence that Gemini had secretly replaced N between the November 2024 proposal revisions and award on April 1, 2025. Moreover, the record reflects that the awardee has since represented to the agency that R remains available and committed to perform. AR, Tab 51.1, Emails between Gemini and Agency at 3. On this record, we have no reason to conclude that Gemini had actual knowledge that R would be unavailable--or, for that matter, that R actually is unavailable to perform. As such, we find no merit to this allegation. *Booz Allen Hamilton, Inc.*, B-422118.2, B-422118.3, July 30, 2024, 2024 CPD ¶ 184 at 8-9.

Qualification of Key Person

Next, emissary challenges the evaluation of key personnel qualifications. Comments & Supp. Protest at 25-28. Specifically, the protester asserts that Gemini's proposed "senior special operations training, exercise, education and readiness analyst" fails to meet the solicitation's mandatory minimum experience requirements. *Id.*

Relevant here, the PWS specified the candidate for this key position must have a "[m]inimum 3 years of experience with Global Force Management and the Secretary of Defense Orders Book process." RFP at 8. The agency explains that Global Force Management (GFM) "is a process of aligning global joint force requirements to support the National Defense Strategy," and the Secretary of Defense Orders Book process "is a briefing document that routes orders through the Directors of the Joint Staff Directorates, Office of the Secretary of Defense", and the Chairman of the Joint Chiefs of Staff to the Secretary of Defense for approval. Supp. COS/MOL at 2. Examples include "GFM Allocation Plans and modifications, warning orders, execute orders, deployment orders, force preparation messages, and alert and mobilization orders." *Id.* at 2.

Gemini's proposal represents the following regarding its candidate: "10+ years of experience with Global Force Management and the Secretary of Defense Orders Book process: 09/2020-05/2022, 03/2011-02/2018, and 10/1998-03/2011." AR, Tab 21c, Gemini Technical Proposal at 18. The dates reference the candidates relevant work experience as a senior strategic advisor [DELETED], respectively. *Id.* at 19-20. The agency found that each of these experiences combined to more than ten years relevant experience, exceeding the minimum experience requirement of three years. AR, Tab 43, TEB Report at 13.

emissary argues that the contemporaneous record does not explain or document why the evaluators considered the candidate's experience as an [DELETED] should be construed as having experience with GFM and the Secretary of Defense Orders Book process. Comments & Supp. Protest at 25-26.

In response to the protest, the contracting officer states she "asked the [TEB] about the allegation against its evaluation of the experience requirements," and the lead evaluator relayed the TEB's "rationale in reviewing and evaluating" the work experience of Gemini's proposed key person. Supp. COS/MOL at 2. According to the evaluators, "based on their knowledge and familiarity of" the strategic advisor, [DELETED] positions, the candidate had the required experience based on what the evaluators believed he likely would have done in those roles.⁵ *Id.* at 3. WHS contends emissary merely disagrees with the agency's judgment, and that an "agency may properly use

⁵ We note that the agency failed to provide any direct statement or declaration from the evaluators. Rather, these averments are relayed by the contracting officer based on a post-protest conversation with the lead evaluator. Supp. COS/MOL at 2 ("[T]he lead TEB evaluator explained to me that . . .").

information known by its own evaluators, as with any other references, to aid in the evaluation of proposals.” *Id.* at 15.

Where a solicitation states that the qualifications of key personnel will be evaluated, and a proposal fails to demonstrate that key personnel hold qualifications that the solicitation requires them to possess, the proposal may be evaluated as unacceptable. *ICI Servs. Corp.*, B-411812, B-411812.2, Sept. 21, 2015, 2015 CPD ¶ 288 at 5. Our Office will sustain a protest where the agency unreasonably concludes that a proposed key person meets minimum experience requirements. *Professional Serv. Indus., Inc.*, B-412721.2 *et al.*, July 21, 2016, 2016 CPD ¶ 234 at 8.

Here, the contemporaneous record does not support the agency’s evaluation. The RFP required the submitted resume to describe experience to demonstrate the candidate met the minimum requirements and warned that the failure to provide a suitable key person would result in a deficiency. RFP at 86, 91. Significantly, Gemini’s proposal included a resume that provided no details regarding the candidate’s experience specific to the GFM and the Secretary of Defense Orders Book process. AR, Tab 21c, Gemini Technical Proposal at 18-20. Nevertheless, the agency concluded, based on the evaluators’ assumptions about the resume positions, the candidate possessed more than ten years of relevant work. In this regard, the agency’s conclusions were not based on information identified in or supported by the proposal. *VariQ Corp.; Octo Consulting Grp., Inc.*, B-417135 *et al.*, Mar. 18, 2019, 2019 CPD ¶ 124 at 6.

Furthermore, we find unpersuasive the agency’s post-protest explanations. Our Office generally considers post-protest explanations where the explanations provide a detailed rationale for contemporaneous conclusions and fill in previously unrecorded details, so long as the explanations are credible and consistent with the contemporaneous record. *NCI Info. Sys., Inc.*, B-412680, B-412680.2, May 5, 2016, 2016 CPD ¶ 125 at 11. We give little weight to reevaluations and judgments made in the heat of litigation because we are concerned that the new judgments may not represent the fair and considered judgment of the agency. *Boeing Sikorsky Aircraft Support*, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15.

As an initial matter, neither the contemporaneous record nor the agency’s post-protest explanations provides any direct evidence to support the TEB’s assessment. The agency’s only explanation of the TEB’s rationale is provided through the contracting officer’s narrative of a post-protest conversation she had with one of the evaluators, not from any statement or declaration directly attributable to any evaluator. Notably, the contracting officer’s statement clearly demonstrates that, as the SSA, she was unaware of the rationale for the TEB’s assessment of Gemini’s key person, because it had not been documented during the evaluation process. As such, the explanation does not just “fill in previously unrecorded details” but, rather, provides a rationale that was neither documented nor apparent to the SSA at the time of her source selection.

Finally, even if we were to give any weight to the agency’s post-protest representation, the TEB’s explanation still fails to identify any personal knowledge of the proposed

candidate's experience by the evaluators. That is, the evaluator's explanation is based on knowledge of the types of positions in the candidate's resume, not personal knowledge of the candidate's actual experience. Supp. COS/MOL at 2-3. On these facts--where neither the protester's proposal nor the agency's unsupported statements demonstrated the experience--we conclude that the agency unreasonably found that the proposed key person not only met, but exceeded the minimum experience requirements of the RFP, and sustain this basis of emissary's protest. *VariQ Corp.*, B-414650.11, B-414650.15, May 30, 2018, 2018 CPD ¶ 199 at 6 (finding evaluation record did not contain sufficient information to establish candidate met experience requirements and evaluator's post-protest explanations contained unsupported statements regarding candidate's experience and knowledge that amounted to "educated guesswork").

OCI Mitigation Plan

As discussed above, following emissary's protests of earlier awards under this solicitation, the agency investigated the allegation that Gemini had an actual or potential impaired objectivity OCI based on the firm's work under the Special Operations Forces (SOF) indefinite-delivery, indefinite-quantity multiple-award contract for "subject matter expertise and knowledge-based services in support of" United States Special Operations Command (USSOCOM). AR, Tab 42, Initial OCI Memorandum at 4. Based on that investigation, the contracting officer found that Gemini's other work "raise[d] the potential for both impaired objectivity OCI and unequal access OCI." *Id.* at 6.

The FAR requires that contracting officials avoid, neutralize, or mitigate significant potential conflicts of interest to prevent an unfair competitive advantage or the existence of conflicting roles that might impair a contractor's objectivity. FAR 9.504(a), 9.505. The situations in which OCIs arise, as described in FAR subpart 9.5 and the decisions of our Office, can be categorized into three groups: (1) impaired objectivity; (2) biased ground rules; and (3) unequal access to information. *McConnell Jones Lanier & Murphy, LLP*, B-409681.3, B-409681.4, Oct. 21, 2015, 2015 CPD ¶ 341 at 13. As relevant here, an impaired objectivity OCI exists where a firm's work under one government contract could entail evaluation of itself, either through an assessment of performance under another contract or an evaluation of proposals. FAR 9.505-3; *ICI Servs. Corp.*, B-418255.5, B-418255.6, Oct. 13, 2021, 2021 CPD ¶ 342 at 17. An unequal access to information OCI exists where a firm has access to nonpublic information as part of its performance of a government contract, and where that information may provide the firm a competitive advantage in a later competition for a government contract. FAR 9.505(b), 9.505-4; *Raytheon Technical Servs. Co. LLC*, B-404655.4 *et al.*, Oct. 11, 2011, 2011 CPD ¶ 236 at 4.

On July 2, 2024, the agency asked Gemini to submit a mitigation plan to address the potential OCIs. AR, Tab 42, Initial OCI Memorandum at 6. After two rounds of exchanges, the agency accepted a final revised mitigation plan on July 19. AR, Tab 40, Mitigation Plan Emails; AR, Tab 42, Initial OCI Memorandum at 6. The contracting officer concluded that any potential OCI was effectively mitigated by the following "critical measures that Gemini included in its mitigation plan": (1) establishing a

dedicated division to perform the contract under this RFP that “is restricted from supporting any current or future USSOCOM” work; (2) implementing “boundaries and access controls to prevent the exchange of sensitive information” between employees performing this work and any other employees, including nondisclosure agreements; (3) instituting mandatory OCI training; and (4) ensuring separation of reporting chains under Gemini contracts. AR, Tab 42, Initial OCI Memorandum at 6-7; AR, Tab 44, Final OCI Memorandum at 7.

After review of the agency report, the protester no longer challenges the agency’s investigation of the alleged OCI or the adequacy of the mitigation plan. Comments & Supp. Protest at 6 n.2. Instead, emissary argues that WHS failed to consider the impact of the OCI mitigation measures on Gemini’s proposed technical approach. *Id.* at 6-7, 10. In this connection, agencies are required to consider the effect that a firm’s OCI mitigation measures have on its technical approach, and whether such OCI mitigation measures either directly contradict a firm’s proposed technical approach or otherwise call into question the agency’s original evaluation conclusions concerning the merit of a firm’s proposed approach. *ARES Technical Servs. Corp.*, B-415081.2, B-415081.3, May 8, 2018, 2018 CPD ¶ 153 at 6.

Relevant here, Gemini’s proposed plan to mitigate the potential for OCIs was to confine all work under this contract within its Enterprise Infrastructure Support (EIS) division, kept separate and apart from its Strategic Planning and Execution (SPEX) division that is currently performing under the USSOCOM contract. AR, Tab 40a, OCI Mitigation Plan at 13-14. This includes a siloed reporting chain for employees to “report directly to their on-site Task Lead(s) who reports to the Program Manager who, in turn, reports to the Division Director,” who reports to Gemini’s vice president. *Id.* at 17. It also includes restricted access to corporate resources for employees performing on the SOLIC contract, and an information firewall between employees performing on the SOLIC contract and any other company employees, preventing SOLIC employees from sharing information with others. *Id.* at 18-19. However, in contrast to this arrangement, Gemini’s proposal--on which the agency evaluated and made award--depicts a different management structure, with a program manager reporting to a contract manager, who reports directly to the chief executive officer and founder of the firm. AR, Tab 21c, Gemini Technical Proposal at 4-5. The proposal devotes significant discussion to the contract manager’s role and his interplay with and reliance on other personnel and resources throughout Gemini. See *id.* at 4-5, 11. The record, however, does not contain any analysis of the change in Gemini’s technical approach of requiring the program manager to report to a contract manager to requiring the program manager to report to the division director in the OCI mitigation.

Accordingly, we sustain this aspect of the protest because the agency failed to consider the impact of the OCI mitigation measures on the awardee’s technical approach. *A Square Grp., LLC*, B-421792.2, B-421792.3, June 13, 2024, 2024 CPD ¶ 139 at 13. In this regard, there is nothing in the contemporaneous record to show that the agency evaluated the impact of Gemini’s mitigation strategy on its technical approach. Although Gemini informed the agency of its intention to firewall SOLIC employees from

the rest of the company and revamp reporting chains accordingly, there is nothing in the record to show that the evaluators meaningfully considered the impact of Gemini's mitigation strategy on its technical approach. See AR, Tab 42, TEB Report at 7; AR, Tab 49, SSDD at 5. Instead, the agency considered the OCI mitigation plan in isolation.

Most notably, the agency does not contend that the evaluators considered the impact of the OCI mitigation strategy on Gemini's technical approach--only that WHS disagrees with the protester's allegation that there were inconsistencies. Supp. COS/MOL at 8-10. Under these circumstances, we find the agency's failure to consider the impact of the OCI mitigation measures on Gemini's proposed technical approach to be unreasonable. *A Square Grp., LLC, supra* at 13.

Past Performance Evaluation

The protester also asserts that WHS unreasonably credited Gemini with past performance that was irrelevant, as well as with performance by allegedly unrelated divisions within the firm. Comments & Supp. Protest at 7-9, 10-15.

OCI Mitigation Plan

Along similar lines to the prior protest ground, emissary alleges WHS failed to consider the impact of Gemini's OCI mitigation strategy as it relates to the agency's evaluation of the awardee's offered past performance. As part of its mitigation effort, Gemini planned to use EIS--a firewalled division within Gemini--to perform the requirements of this contract. AR, Tab 42, Initial OCI Memorandum at 6-7; AR, Tab 44, Final OCI Memorandum at 7. As noted above, EIS and its employees supporting SOLIC would be prohibited from working on USSOCOM efforts. AR, Tab 40a, OCI Mitigation Plan at 16-17. emissary argues, given that EIS is a distinct division within Gemini, the agency unreasonably imputed past performance from Gemini's other divisions to the proposal. Comments & Supp. Protest at 7-9.

Regarding past performance, the RFP explained that WHS would "evaluate how well the Offeror has performed on contracts that have been determined to be both recent and relevant to the PWS" to determine the agency's confidence that the offeror will successfully perform this work. RFP at 91-93. The solicitation specified that past performance references could be from the offeror or a proposed subcontractor, but any reference from a subcontractor must also explain "how the Offeror expects the subcontractor to significantly contribute to the successful performance of the solicited work." *Id.* at 87.

Gemini's proposal includes three past performance references. AR, Tab 21d, Gemini Past Performance Proposal at 3-11. Two of the three past performance references are from Gemini as an entity. *Id.* Gemini did not propose any past performance references performed by the EIS division, but instead, relied on references to past performance on task order No. FA4814-20--F--0137 (providing support to USSOCOM planning teams) and task order No. FA714622FB013 (providing support for the Secretary of the Air

Force, Concept, Development, and Management Office).⁶ *Id.* These task orders are performed by other Gemini divisions--SPEX and Advanced Concepts & Technologies (ACT). AR, Tab 40a, OCI Mitigation Plan at 16. EIS, SPEX, and ACT reflect how Gemini has organized its firm; they are not independent legal entities but rather internal divisions of the company. See *id.*

In the protester's view, the awardee cannot simultaneously offer EIS as a distinct division within Gemini to perform the requirements of this contract yet also claim that past performance history from other divisions will have a bearing on how Gemini will perform. Comments & Supp. Protest at 7-10. To support its position, emissary principally relies on our line of decisions, discussed below, requiring that an offeror demonstrate the meaningful involvement of a corporate parent or affiliate in the performance of the work in order for an agency to reasonably consider the corporate experience or past performance of the parent or affiliate. *Id.* In other words, the protester argues that we should treat the different divisions within Gemini as if they were distinct legal entities. The agency responds that it is reasonable to attribute past performance from a different division within the firm under the circumstances here. Supp. COS/MOL at 4-8.

Our Office has previously stated that an agency may properly attribute the experience or past performance of a parent or affiliated company to an offeror where the firm's proposal demonstrates that the resources of the parent or affiliate will affect the performance of the offeror. *Perini/Jones, Joint Venture*, B-285906, Nov. 1, 2000, 2002 CPD ¶ 68 at 4. Because a corporate affiliate is a separate legal entity from the firm submitting the proposal, the relevant consideration is whether the resources of the parent or affiliated company--its workforce, management, facilities or other resources--will be provided, or relied upon, for contract performance such that the parent or affiliate will have meaningful involvement in contract performance. *Ecompex, Inc.*, B-292865.4 *et al.*, June 18, 2004, 2004 CPD ¶ 149 at 5.

Based on the record before us, we find no basis to sustain this allegation. Here, Gemini's past performance proposal reflects the past performance of Gemini as a firm; it does not rely on past performance of an affiliate or parent company. AR, Tab 21d, Gemini Past Performance Proposal at 3-11. In addition, the RFP did not require offerors to differentiate their past performance based on what business division, segment, or unit would perform the work. Instead, the solicitation explained WHS would examine an "offeror's" performance record, requiring information about meaningful contribution only where the performance history came from a proposed subcontractor. RFP at 87. Absent some provision requiring an offeror to justify the relevance or involvement of an offeror's specific business divisions, units, or segments, we find no basis to conclude that the agency erred in evaluating Gemini's past performance from

⁶ The third reference was from Gemini's proposed subcontractor, which is not at issue in the protest.

other divisions here.⁷ *Kropp Holdings, Inc.*, B-420857.8, B-420857.9, Aug. 28, 2024, 2024 CPD ¶ 205 at 19.⁸ This protest argument is therefore denied.

Relevance

emissary also argues that the agency failed to evaluate Gemini's past performance in accordance with the solicitation. Comments & Supp. Protest at 10-15. Specifically, emissary contends that WHS improperly determined that one of Gemini's three past performance references was relevant to the requirements of the PWS. In this connection, the protester focuses on the awardee's past performance reference for task order No. FA714622FB013 (providing support for the Secretary of the Air Force, Concept, Development, and Management Office). *Id.* According to emissary, the record confirms that the task order "principally covers [information technology], engineering, and other professional services which have little, if any, relevance to the" work under the PWS here. *Id.* at 11-12.

⁷ The RFP's language here is in contrast to other solicitation provisions our Office has reviewed that limit an agency's consideration of the experience or past performance of separate business divisions, units, or segments. See, e.g., *Jacobs Tech., Inc.*, B-420016, B-420016.2, Oct. 28, 2021, 2021 CPD ¶ 373 at 5-6 n.8 (solicitation explaining that, if submitted, past performance "includes data on any affiliated company, division(s), business units, segments, or other organizations of the Offeror, then [offeror must] provide a narrative to address what they will be responsible for and/or proposing to do and the specific resources (workforce, management, facilities, or other resources) to be employed and relied upon, such that said parent *et al* will have meaningful involvement in contract performance"); *Iyabak Constr., LLC*, B-409196, Feb. 6, 2014, 2014 CPD ¶ 62 at 2 (solicitation explaining that an "offeror will not receive credit for relevant past performance of a parent, affiliate, or [separate] division").

⁸ Rather than follow the analysis in GAO's *Kropp Holdings* decision, the protester urges at length that GAO should instead "follow the rationale set forth in Judge Somers's decision in *Kropp Holdings Inc. v. United States*, ___ Fed. Cl. ___, 2025 WL 1514006 at *32 (May 9, 2025)" to find that the agency was required to disregard the past performance of non-EIS divisions of Gemini. Supp. Comments at 3.

As an initial matter, our Office is not bound by decisions of the U.S. Court of Federal Claims. *DNC Parks & Resorts at Yosemite, Inc.*, B-410998, Apr. 14, 2015, 2015 CPD ¶ 127 at 7; *Kingdomware Techs.--Recon.*, B-407232.2, Dec. 13, 2012, 2012 CPD ¶ 351 at 3. In any event, we do not find that the facts of that case support the protester's argument here. In *Kropp Holdings*, the firewalled division would operate entirely separately and distinctly from the overall entity, with physical separation and without the company's leadership team. See *Kropp Holdings*, ___ Fed. Cl. at 99-100. In contrast, here, the division and firewall separation would prevent SOLIC employees from disclosing information to other Gemini employees and would restrict SOLIC employees from supporting USSOCOM work but does not entail the same separations and excision of leadership, as it did in *Kropp Holdings*. See AR, Tab 40a, OCI Mitigation Plan at 13-14.

The agency responds that it conducted its past performance evaluation in accordance with the requirements set forth in the solicitation. COS/MOL at 11-16. WHS argues that because “the solicitation did not require past experience to be demonstrated in the context of special operations and irregular warfare,” the evaluators reasonably determined that Gemini’s work on the task order was “of essentially the same scope as those solicited.” *Id.*

The evaluation of an offeror’s past performance is generally within the discretion of the contracting agency, and we will not substitute our judgment for reasonably based past performance ratings. *Computer Scis. Corp. et al.*, B-408694.7 *et al.*, Nov. 3, 2014, 2014 CPD ¶ 331 at 12. We will question an agency’s evaluation conclusions, however, when they are unreasonable or undocumented. *OSI Collection Servs., Inc.*, B-286597, B-286597.2, Jan. 17, 2001, 2001 CPD ¶ 18 at 6. The critical question is whether the agency conducted the evaluation fairly, reasonably, and in accordance with the solicitation’s evaluation scheme. *Al Raha Grp. for Technical Servs., Inc.; Logistics Mgmt. Int’l, Inc.*, B-411015.2, B-411015.3, Apr. 22, 2015, 2015 CPD ¶ 134 at 5.

As noted above, the solicitation stated that WHS would “evaluate how well the Offeror has performed on contracts that have been determined to be both recent and relevant to the PWS” to determine the agency’s confidence that the offeror will successfully perform this work. RFP at 91-93. To conduct the past performance assessments, the RFP explained that the evaluators would assess recency, relevance, and quality of performance of each reference and then assign an overall performance confidence assessment rating. *Id.* at 91. Relevance was defined “as present/past experience that involved scope **AND** magnitude of effort and complexities this solicitation requires,” with similarity of scope determined by comparison to the specific tasks identified in Section 5 of the PWS. *Id.* at 91, 16-20.

Those required tasks are identified in the PWS under position titles for legislative and program analysis, policy and planning, and communications support: (1) senior legislative analyst - SOLIC external affairs; (2) senior special operations congressional and budget program analysis support; (3) special operations special access program analysis support services; (4) special operations sensitive activities and compartmented program analysis support services; (5) special operations training, exercise, education and readiness analyst support; (6) special operations policy and oversight council executive secretary support; (7) SOLIC strategic communications analyst support; and (8) SOLIC personnel specialist support. *Id.* at 16-20.

At issue is the agency’s finding that Gemini’s past performance reference of task order No. FA714622FB013 (providing support for the Secretary of the Air Force, Concept, Development, and Management Office) was relevant to the requirements of the PWS. According to the agency, Gemini’s past performance proposal demonstrated the firm performed similar work in seven of the eight PWS tasks by position, just not in the task related to “special operations and irregular warfare.” COS/MOL at 12-16.

As discussed above, the specific tasks identified in the PWS are for support services in the categories of legislative and program analysis, policy and planning, and communications. RFP at 16-20. In its proposal, Gemini represented that its past performance work was relevant to the solicitation's PWS. AR, Tab 21d, Gemini Past Performance Proposal at 6-9 ("This work is highly relevant to the scope and magnitude of the OASD SOLIC task requirements."). The record, however, reflects that Gemini described its work in terms of cyber, information technology (IT), and systems engineering experience. For example, in describing how its prior contract work aligned with the current PWS, Gemini declares:

Through the performance period, Gemini cyber, enterprise architecture, and systems engineering support grew to include network architecture and computer systems infrastructure design, technology integration, data engineering, and development of cloud-based applications. Gemini has effectively designed infrastructure for greater scalability, optimized data delivery, and automated manual processes.

Id. at 6. The performance reviews for Gemini reflect the same, describing the work of "Cyber Program Managers, Web Developers, Data Engineers, Data Scientists, SharePoint Specialists and Systems Engineers" on "enterprise architecture and cyber programs." AR, Tab 26, Contract Performance Assessment Report (CPAR) at 4. Yet, in assessing Gemini's past performance, the evaluators concluded that the references "demonstrated experience and scope of work" in legislative and program analysis, policy and planning, and communications. AR, Tab 43, TEB Report at 18. Absent from the evaluation is any mention of IT work in the TEB's assessment of Gemini's past performance. *Id.*

Notably, the agency does not contend that IT-related work is relevant to the solicitation's PWS tasks. Instead, the agency argues that the evaluators reasonably concluded that Gemini's work under the task aligned exactly with the technical tasks needed for SOLIC based on other parts of the past performance narrative. COS/MOL at 12-16. In short, the agency ignores the true basis of the protester's argument--which is that Gemini's overall presentation of the past performance reference, including the supporting CPARs, reflect performance of IT-related efforts.

Here, the solicitation required the agency to evaluate whether past performance references were relevant based on similarity of the work performed to the legislative, program, policy and planning, and communications support required here. RFP at 91, 16-20. The contemporaneous record reflects that the agency found Gemini's experience providing IT-related support services for the Air Force was similar or essentially the same as the legislative, program, policy and planning, and communications support here. AR, Tab 43, TEB Report at 18. The record, however, does not explain how Gemini's information technology support services for the Air Force were, in fact, similar or essentially the same. On this record, we cannot find the agency's relevancy determination--and resulting assignment of a "substantial confidence" rating to Gemini's past performance--to be reasonable. *See Al Raha Grp.*,

supra at 11-12 (sustaining the protest, in part, because the evaluation of the awardee's past performance was inconsistent with the terms of the solicitation).

Best-Value Tradeoff

emissary also contends that the agency's best-value tradeoff necessarily was flawed because the underlying technical and past performance evaluations were flawed. Comments & Supp. Protest at 35-36. The agency responds that its source selection decision was based on a reasonable underlying evaluation. COS/MOL at 47-48. 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 Technical, Inc.*, B-420860.1 *et al.*, Oct. 13, 2022, 2022 CPD ¶ 257 at 17. In light of our determination that the evaluations under the technical factor and past performance factor were unreasonable, we find the source selection based on that unreasonable evaluation to be itself unreasonable. *Weston-ER Fed. Servs., LLC*, B-418509, B-418509.2, June 1, 2020, 2020 CPD ¶ 311 at 16 (explaining that "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").

Competitive Prejudice

Competitive prejudice is an essential element of every viable protest. *CACI, Inc.-Fed.*, B-420441 *et al.*, Apr. 7, 2022, 2022 CPD ¶ 95 at 9 n.9. 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. *MVM, Inc.*, B-421788.3, B-421788.4, Mar. 5, 2024, 2024 CPD ¶ 63 at 10.

The SSA determined that Gemini's proposal represented the best value to the agency based on the determination that Gemini's past performance "provid[ed] more confidence in successfully performing the contract work over emissary's because of the breadth and depth of Gemini's past performance records." AR, Tab 49, SSDD at 17-18. In addition, the SSA found that emissary had only a slight technical advantage over Gemini that was not worth emissary's higher price. *Id.* at 18.

Here, the agency failed to reasonably evaluate the awardee's proposal under the technical approach and past performance evaluation factors, resulting in a flawed best-value tradeoff decision. If WHS had properly evaluated the offerors' proposals, the agency may have found that emissary's proposal represented the better value to the agency. Accordingly, we find the protester has established competitive prejudice by the agency's evaluation errors, and we sustain the protest.

RECOMMENDATION

For the reasons discussed, we recommend that the agency reevaluate proposals and make a new award decision, consistent with the terms of the solicitation. As part of the reevaluation, the agency may need to solicit revised proposals. In addition, we recommend that emissary be reimbursed the costs of filing and pursuing this protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protester should submit its certified claim, detailing the costs incurred, directly to the contracting officer within 60 days of receiving this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

Edda Emmanuelli Perez
General Counsel