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Decision

Matter of: Pond Security Service GmbH

File: B-423444; B-423444.2

Date: July 16, 2025

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DIGEST

Protest challenging various aspects of the agency's evaluation and award decision is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation or, to the extent the agency committed any errors, such errors did not competitively prejudice the protester.

DECISION

Pond Security Service GmbH (Pond), of Erlensee Hessen, Germany, protests the award of a contract to Putz Security AG (Putz), of Berlin, Germany, under request for proposals (RFP) No. 19AQMM22R0275, issued by the Department of State (DOS) for local guard services. Pond contends that the agency unreasonably evaluated proposals and made a flawed best-value tradeoff decision.

We deny the protest.

BACKGROUND

The agency issued the RFP on March 1, 2023, for local guard services at the United States Mission in Germany including the United States Embassy in Berlin and other post locations in Hamburg, Leipzig, Frankfurt, Dusseldorf, and Munich. Agency Report (AR), Exh. 159, RFP amend. 11 at 10.¹ In general terms, the RFP required the

¹ The solicitation was amended 11 times. Contracting Officer Statement (COS) at 2. Our citations to the solicitation are to RFP amendment 11, as provided by the agency as (continued...)

contractor to provide the organizational structure, management, equipment, and qualified local guard force focusing on specific actions in the general and post orders for all sites, facilities, and guard post locations. See *generally*, RFP amend. 11, Performance Work Statement (PWS) at 11; see *also*, AR, Exh. 3, Indefinite-Delivery, Indefinite-Quantity (IDIQ) Exh. B, General and Post Orders.

Among other things, the solicitation included a list of contractor-furnished property to perform the solicited services at all guard post locations. See AR, Exh. 3, IDIQ Exh. D, Contractor Furnished Property at 1-6. For example, the contractor must furnish the required weapon system for all employees assigned to an armed guard post location and to obtain the necessary licenses and permits in accordance with German laws and regulations. *Id.* at 3. The weapon system currently being used by the local guard force in Germany was identified as CZ-75 BD (Police) model. RFP amend. 11 at 38.

Additionally, and relevant here, the solicitation identified various training requirements for new and incumbent employees. *Id.* at 19, 35. The basic training program for all new and incumbent employees shall be a minimum of 80 hours, and for new hires an additional 40 hours of firearms training is required with an annual refresher firearms training requirement of 8 hours. *Id.* at 36, 39. The additional 40 hours firearms training did not apply to incumbent guard personnel if the offeror planned to use the same weapon system as the one that is currently being used, the CZ-75 BD (Police) model. *Id.* at 39.

The RFP contemplated the award of a single, IDIQ contract with a 5-year ordering period, under which three task orders with time-and-materials line items will be issued simultaneously with the IDIQ contract.² RFP amend. 11 at 5, 96. Each task order will be issued for the actual known service requirements with an estimated total price and ceiling price in the task order schedule.³ Task order 1 will be for staffing post locations in Berlin, Hamburg, and Leipzig; task order 2 will be for staffing post locations in Frankfurt and Dusseldorf; and task order 3 will be for staffing the post location in Munich. *Id.* at 10. The IDIQ contract has a guaranteed minimum of €10,000 and a maximum ceiling of €240,000,000, which includes the 5-year ordering period and an optional 6-months extension. *Id.* at 6.

The RFP included detailed proposal preparation instructions that required offerors to submit both a price and technical proposal, and provided specific instructions about the

exhibit 159. All citations to the record and the parties' briefings are to the Adobe PDF pages for those documents.

² Subsequent task orders that include cost-reimbursable and fixed-price contract line items will be issued during the ordering period. RFP amend. 11 at 5, 96.

³ The RFP cautioned that the contractor cannot exceed the ceiling prices shown in the pricing tables of each task order, either in total or for any category, unless the contracting officer signs a written contract modification to increase the ceiling. RFP amend. 11 at 6.

content, page limitations, and format of the two volumes. RFP amend. 11 at 84-95. Regarding price proposals (volume 1), offerors were instructed to submit completed section B pricing tables, other than cost and pricing spreadsheets, a completed sample invoice using the template provided in the solicitation, a compensation plan, and a business management plan. *Id.* at 86-88.

For the technical proposal (volume 2), the solicitation specifically instructed offerors to submit their technical proposal organized as follows: (1) IDIQ volume; (2) task order Berlin and constituent posts; (3) task order Frankfurt and constituent posts; and (4) task order Munich. Each of these four sections should be further organized using the following designations: (1) transition and performance plan; (2) experience; (3) risk management and contingency plan; and (4) past performance. *Id.* at 84-85.

The solicitation established that award would be made on a best-value tradeoff basis, considering five evaluation factors: (1) transition and performance plan; (2) experience; (3) risk management and contingency plan; (4) past performance; and (5) price. RFP amend. 11 at 97. The relative importance of the technical evaluation factors were stated as: the transition and performance plan (factor 1) was significantly more important than both the experience and risk management contingency plan factors (2 and 3). The experience factor was significantly more important than the risk management and contingency plan factor, and past performance (factor 4) was the least important non-price factor.⁴ *Id.* When combined, all non-price factors were significantly more important than price, and as the combined non-price factors become more equal, the total evaluated price becomes more important and may be the determining factor in the award decision. *Id.* at 101.

Under the most important evaluation factor, transition and performance plan, the solicitation identified the following elements, which the offeror was required to address in its technical proposal: (1) personnel/recruiting; (2) training continuum; (3) vetting; (4) permits, certifications, and licenses; (5) staffing (relief, vacation, leave, operations);

⁴ For the transition and performance plan, experience, and risk management and contingency plan factors (1, 2, and 3), the RFP established five possible combined technical/risk adjectival ratings based on consideration of risk and the evaluated strengths, weaknesses, and deficiencies in proposals. These adjectival ratings are excellent, good, satisfactory, marginal, and unsatisfactory. RFP amend. 11 at 99.

Relevant here, the solicitation defined a rating of good as applicable to a proposal that “demonstrates good understanding of requirements and approach that exceeds performance or capability standards” and “[h]as one or more strengths that will benefit the [government]” and the “risk of unsuccessful performance is low to moderate.” *Id.*

The solicitation defined a rating of satisfactory as applying to a proposal that “demonstrates acceptable understanding of requirements and approach that meets performance or capability standards” and under which the “risk of unsuccessful performance is no worse than moderate.” *Id.*

(6) equipment; (7) transition stand-up project plan; (8) organizational and continued management structure; and (9) key personnel. RFP amend. 11 at 89-94; 101.

Under the second most important factor, experience, offerors were to submit at least two--and a maximum of six--projects successfully providing security services of the same or similar size and complexity over the past three years. The solicitation required at least one of these projects to be of similar size. *Id.* at 94. To be considered similar in size, a submitted project must be approximately 85 percent of the size of the solicited requirement in terms of staffing levels and total annual hours of security services.⁵ To be considered similar in complexity, a submitted project had to involve the same types of security tasks described in this solicitation including access control, screening, vehicle inspections, mobile patrols, armed guards, hand-held metal detectors, incident responses, supervisor inspections, and dispatcher duties. *Id.*

Under the risk management and contingency plan (factor 3), offerors were to demonstrate how they would ensure continuity of contractually obligated services during adverse events and other anticipated/unanticipated situations that would negatively impact the United States Mission in Germany. *Id.* at 95. For past performance (factor 4), offerors were instructed to submit at least six and up to ten security contracts or subcontracts of any size, performed over the past three years, and performed in any location. *Id.* The agency would evaluate the offeror's past performance references based on recency, relevancy, and quality and assign one of the following adjectival relevancy ratings: very relevant, relevant, somewhat relevant, or not relevant. The available performance confidence ratings were substantial confidence, satisfactory confidence, unknown (neutral) confidence, limited confidence, or no confidence. *Id.* at 100-101.

As to price, the agency would calculate the offeror's total proposed price, which is the sum of all line item prices for the base and all option years including the optional 6-months extension, but excluding any proposed value added tax (VAT). RFP amend. 11 at 98. The agency then would perform a price analysis of the total proposed price to determine reasonableness and whether the proposed pricing was consistent with the offeror's technical approach. *Id.*

DOS received initial proposals from Pond (the incumbent), and Putz, by the final submission deadline of May 11, 2023. COS at 1; AR, Exh. 184, Award Determination at 3. The agency's technical evaluation panel (TEP) evaluated technical proposals, and a separate price evaluation team (PET) evaluated price proposals for reasonableness and completeness. The agency established multiple competitive ranges comprised of both proposals, engaged in five rounds of written discussions with both offerors, and solicited revised proposals (FPR 1-4). After five rounds of discussions with both offerors, the agency requested, received, and evaluated the final request for final

⁵ Offerors were to submit a completed staffing plan included as a solicitation exhibit that delineated the post locations, guard post functions, labor categories, and hours of operations for each post. See RFP amend. 11, Exh. A.

proposal revisions (FPR5) and best and final pricing from both offerors. COS at 2; AR, Exh. 184, Award Determination at 8.

The final consensus ratings for the FPR5s submitted by Pond and Putz and their evaluated prices were as follows:

	Pond	Putz
1. Transition and Performance Plan		
IDIQ Volume	Satisfactory	Good
Task Order Berlin	Satisfactory	Satisfactory
Task Order Frankfurt	Satisfactory	Satisfactory
Task Order Munich	Satisfactory	Satisfactory
2. Experience		
	Excellent	Satisfactory
3. Risk Management and Contingency Plan		
IDIQ Volume	Satisfactory	Satisfactory
Task Order Berlin	Satisfactory	Satisfactory
Task Order Frankfurt	Satisfactory	Satisfactory
Task Order Munich	Satisfactory	Satisfactory
4. Past Performance		
Relevancy	Very Relevant	Relevant
Confidence Assessment	Satisfactory Confidence	Satisfactory Confidence
5. Total Evaluated Price of all Task Orders		
Including VAT	€281,712,741	€196,955,774
Excluding VAT	€236,733,395	€165,509,053
IGCE including VAT	€191,030,602	
IGCE excluding VAT	€160,529,918	

COS at 5-6; AR, Exh. 184, Award Determination at 45; AR, Exh. 180, Price Analysis at 1-5.

The evaluators identified strengths and weaknesses--including ones deemed as significant--under the transition and performance plan, experience, and risk management and contingency plan factors (1, 2, and 3) in support of the consensus ratings assigned, which were documented in evaluation reports. *See generally*, AR, Exh. 183, TEP Eval. of FPR5 at 9-17. Similarly, the evaluators made narrative findings regarding the relevance and quality of each offeror's past performance references to support the assigned consensus ratings. *Id.*

The PET performed a price analysis by evaluating each offeror's final price proposal in accordance with Federal Acquisition Regulation (FAR) sections 15.305(a)(1) and 15.404-1 using the following metrics: (1) historical data utilizing rates from prior contracts for the United States Mission in Germany (performance period of November 1, 2024 through October 31, 2025); (2) other competing proposals; and (3) the

independent government cost estimate (IGCE).⁶ See AR, Exh. 184, Award Determination at 35. Pond's total evaluated price (excluding VAT) was the highest-priced proposal which was 43 percent higher than Putz's price, 47 percent higher than the IGCE, and 43 percent higher than historical prices paid. See *id.* at 42; see *also*, AR, Exh. 180, Price Analysis Summary of FPR5.

The source selection authority (SSA), who was also the contracting officer for the procurement, reviewed the evaluation results and supporting narratives and concurred with the evaluators' findings. The SSA then conducted an integrated assessment of the qualitative merits of the proposals and concluded that Putz's proposal offered a superior transition and performance plan (factor 1) because Putz proposed a transition period of [DELETED] days compared to the 12-months proposed by Pond. The agency considered this shorter transition timeline to be a great benefit to the government.

In this regard, the SSA stated:

The shorter transition period was due to Putz being able to get an agreement in place with the weapons manufacturer to produce the same weapon that the incumbent guards are currently using, leading to the armed guards not being required to re-do Basic Weapons training during the transition period.

AR, Exh. 184, Award Determination at 49.

On the other hand, the SSA found Pond's proposal superior under the second most important factor, experience, primarily due to Pond being the current incumbent contractor. Under the next most important factor, risk management and contingency plan, both offerors were rated equally. For past performance (factor 4), the SSA stated that even though Pond received a very relevant relevancy rating, also primarily due to Pond being the current incumbent contractor, the past performance confidence assessment for both offerors was the same--satisfactory confidence. *Id.* The SSA did not identify any perceived benefits in Pond's higher-priced proposal that would warrant the associated 30 percent, or €71,224,342.09 (excluding VAT), premium.⁷ *Id.* at 49.

⁶ The agency reports that the IGCE is based on the exact requirements requested in this procurement. See *generally*, AR, Exh. 33, Initial IGCE; AR, Exh. 62, Revised IGCE; and AR, Exh. 179, Final IGCE.

⁷ As discussed in greater detail herein, the agency had concerns with Pond proposing additional key personnel candidates/positions and contract administrators at each task order location which were neither required nor described in the solicitation at issue here. AR, Exh. 47, Pond First Discussions Letter at 4; see *also*, e.g., *id.* at 5, 7, 8, 10, 12; see *also*, AR, Exh. 43, TEP Eval. of Pond's Initial Proposal at 11. The agency similarly expressed concerns that the protester further proposed to furnish these non-required personnel with additional equipment and dedicated vehicles above those required by the solicitation. See, e.g., AR, Exh. 184, Award Decision, at 26, 28, 41. The agency
(continued...)

Ultimately, the SSA concluded that Putz's and Pond's proposals were essentially equal under the non-price factors and concluded that Putz's lower-priced proposal provided the best value to the government. AR, Exh. 184, Award Determination at 49. As a result, DOS awarded the IDIQ contract and the three task orders to Putz. *Id.*

After receiving notice of award and a debriefing, Pond filed this protest with our Office.

DISCUSSION

Pond's initial and supplemental protests are focused primarily on the agency's evaluation of Putz's proposal, although Pond also challenges the agency's evaluation of its own technical proposal. Pond asserts that the agency miscalculated its proposal under the transition and performance plan factor and alleges that its proposal merited a higher adjectival rating than satisfactory. Next, the protester takes issue with the agency's evaluation of Putz's proposal under each of the evaluation factors, arguing that the evaluation was unreasonable and was otherwise materially flawed. Finally, Pond challenges the best-value tradeoff and award decisions as unreasonable, arguing that the decisions were based on flawed underlying evaluations.

In filing and pursuing these protests, Pond has made arguments that are in addition to, or variations of, those discussed below. We have considered all of the protester's arguments and, while we do not specifically address them all, we find that none provides a basis to sustain the protest. We discuss some representative examples below.

Technical Evaluation

Unstated Evaluation Criterion

As discussed above, the solicitation established the transition and performance plan as the most important evaluation factor. Among other things, offerors were required to provide a detailed narrative to demonstrate their ability to successfully perform the solicited services and to demonstrate their ability to manage the transition and performance of the contract--from contract award through contract closeout. See RFP amend. 11 at 101.

In evaluating Pond's initial proposal under this evaluation factor, the TEP noted:

[T]hat as the incumbent, Pond has a strong understanding of the U.S. Government's requirements. However, . . . Pond proposed additional key personnel, overhead positions, additional equipment, and other resources beyond the requirements of the RFP without justification or

also noted concerns with Pond's proposed provision of excessive administrative and office equipment that were similarly not required by the RFP. *Id.* at 21, 26, 28.

rationale of how or why these additions will directly benefit the U.S Government. These additions may include excessive or over inflated costs beyond what would be required to successfully perform the services.

AR, Exh. 43, TEP Eval. of Pond's Initial Proposal at 11.

As an example of the agency's concerns, the agency requested during discussions that Pond specifically address the following:

Pond proposes additional Key Personnel candidates/positions . . . that are not required or described in the solicitation requirements. Pond also describes contract administrators at each location, which is not a requirement of the RFP. The panel believes this may present a breakdown in communications between the potential candidates, the approved Key Personnel, and, if formally nominated to staff the contract, a delay in the Government obtaining any required information for the entire nomination package submission. Additionally, this presents a risk of excessive costs by inserting too many layers to the hiring and nomination process. The panel requests Pond to justify and adequately explain the need for additional IDIQ Key Personnel positions that are not a requirement of this RFP as the proposed number of individuals appears excessive. Additionally, the Panel requires Pond to explain how it will ensure that there are not breakdowns in communications between candidates, Pond, and the Government.

AR, Exh. 47, Pond First Discussions Letter at 4; *see also, e.g., id.* at 5, 7, 8, 10, 12 (raising concerns and requesting further explanation for proposed uniform and computer equipment in excess of contractual requirements).

With limited exceptions, the agency did not find that Pond's subsequent proposal revisions provided sufficient justification to allay the government's concerns with regard to excess equipment and staffing. *See, e.g.,* AR, Exh. 183, FPR5 TEP Eval. Chair's Report at 10-11, 15.

Pond alleges that the agency misevaluated its technical proposal under the transition and performance plan factor. According to the protester, the satisfactory rating it received under this factor, based on cost-related risks, was unreasonable and reflects the application of an unstated evaluation criterion. In any event, the protester contends that its proposal merited a rating higher than satisfactory because the additional staffing, equipment, and other resources were in fact necessary for successful contract performance. *See generally*, Protest at 14-19; Comments & Supp. Protest at 19-21; Supp. Comments at 6.

The agency counters that the TEP reasonably considered the risk to performance created by Pond's proposed excess staffing and equipment, and reasonably determined

that such additional equipment and staffing could likely result in excessive or over inflated costs to the government. The agency underscores the nature of the technical evaluation required by the RFP; that is, the agency would assign a combined technical and risk rating by considering risk in addition to strengths, weaknesses, and deficiencies in an offeror's technical proposal. MOL at 13-14 *citing* RFP amend. 11 at 99. We agree that the protester has not established that the agency applied an unstated evaluation criterion.⁸

Where a protester challenges the evaluation as unfairly utilizing unstated evaluation criteria, our Office will assess whether the solicitation reasonably informs offerors of the basis for the evaluation. *Raytheon Co.*, B-403110.3, Apr. 26, 2011, 2011 CPD ¶ 96 at 5. Although agencies are required to identify significant evaluation factors and subfactors in a solicitation, they are not required to identify every aspect of each factor that might be taken into account; rather, contracting agencies reasonably may take into account considerations, even if unstated, that are reasonably related to or encompassed by the stated evaluation criteria. See, e.g., *Emagine IT, Inc.*, B-420202, B-420202.2, Dec. 30, 2021, 2022 CPD ¶ 20 at 9; *MiMoCloud*, B-419482, Mar. 25, 2021, 2021 CPD ¶ 157 at 8; *Pond Constructors, Inc.*, B-418403, Mar. 23, 2020, 2020 CPD ¶ 129 at 5. In this regard, we have routinely explained that even when performance risk is not specifically listed in the solicitation as an evaluation criterion, an agency may always consider risk intrinsic to the stated evaluation factors; that is, risk that arises, for example, from the offeror's approach or demonstrated lack of understanding. See *Equinoxys, Inc.*, B-419237, B-419237.2, Jan. 6, 2021, 2021 CPD ¶ 16 at 7-8.

Here, the solicitation defined the scope of various tasks and functions required at all guard post locations. See RFP amend. 11 at 11-21. The solicitation also provided that the transition and performance plan factor would be satisfied when, among other things,

⁸ Moreover, the evaluation record indicates that during the multiple rounds of discussions with Pond, the agency raised these concerns and gave Pond the opportunity to address them in its revised technical proposals. See, e.g., AR, Exh. 47, Pond FPR1 Discussion Letter at 2-5. In its revised technical proposals, Pond maintained its proposed approach and the agency concluded that Pond did not adequately explain how these additional resources would benefit the government. See e.g., AR, Exh. 53, Pond FPR1 Vol. 2, Tech. IDIQ at 28; Exh. 123, Pond FPR3 Vol. 2, Tech. IDIQ at 3.

For example, over multiple rounds of discussions, the agency specifically raised concerns that Pond proposed to provide computer workstations and other equipment for positions not required by the government, and proposed to provide laptops to multiple individuals that already were proposed to receive workstations. See, e.g., AR, Exh. 47, Pond First Discussion Letter at 7-8, 10, 12; Exh. 93, Pond Second Discussions Letter at 8; Exh. 118, Pond Third Discussions Letter at 4. Although the protester explained that it believed the equipment was necessary for efficient performance and suggested that some of the equipment may not need to be separately acquired, the government ultimately determined that the protester failed to provide sufficient justification to warrant the additional equipment.

the offeror's technical proposal demonstrated its ability to perform the contract services and ability to manage the transition and performance of the contract from contract award through contract closeout. See RFP amend. 11 at 101.

As the agency points out, the RFP informed offerors that the agency would evaluate the offeror's ability to support the government's non-price requirements and that the adjectival ratings "represent a combined technical and risk rating . . . [that] includes consideration of risk in conjunction with the strengths, weaknesses, and deficiencies in determining technical ratings." *Id.* at 99. The solicitation defined risk as an aspect of an offeror's proposal that presents "an uncertainty as to the ability of the [o]fferor [to] successfully [] perform the required effort or the proposed approach. An aspect (e.g. cost, price, technical, performance or schedule) that would be possible if the [o]fferor is selected." *Id.*

Given these requirements, it was reasonable for the agency to consider the identified risks/uncertainties associated with Pond's decision to propose additional personnel, overhead positions, equipment, and other resources beyond the RFP requirements, which would likely result in increased costs to the government. As such, the agency's consideration of these identified cost/price related risks in an offeror's technical proposal was logically encompassed within the stated transition and performance plan factor. See, e.g., *Nexant, Inc.*, B-417421, B-417421.2, June 26, 2019, 2019 CPD ¶ 242 at 7-8 (finding the lack of a detailed staffing plan was not an unstated minimum requirement where the agency's concerns were clearly related to, and encompassed by, the stated evaluation criteria); *Renaissant Dev. Corp.*, B-260947, Aug. 7, 1995, 95-2 CPD ¶ 58 at 6-7 (denying protest that agency technical evaluators considered whether the protester's excessive staffing would add cost to the contract, but would not provide any noticeable increase in quality, because there is generally no restriction on technical evaluators considering cost or price). While Pond disagrees with the agency's judgment, the protester's disagreement, without more, does not establish that the evaluation was unreasonable or otherwise flawed. See *DCR Servs. & Constr., Inc.*, B-420179.2, B-420179.3, Apr. 28, 2022, 2022 CPD ¶ 109 at 4. Accordingly, we deny this aspect of the protest.

Putz's Technical Proposal

Pond protests the agency's assignment of a rating of good for the awardee's proposal under the transition and performance plan factor, alleging that the agency failed to hold Putz to the stated solicitation requirements. As a representative example, the protester argues that the agency allegedly waived the requirement for basic firearm training for the awardee, notwithstanding that Putz did not propose to use the identical make and model of the incumbent weapon system. See *generally*, Comments & Supp. Protest at 13-16; Supp. Comments at 2-5. We find no basis on which to sustain the protest.

It is well established that the evaluation of proposals is a matter within the discretion of the contracting agency, since the agency is responsible for defining its needs and the best method of accommodating them. *Vectrus Sys. Corp.*, B-412581.3 *et al.*, Dec. 21,

2016, 2017 CPD ¶ 10 at 3. In reviewing an agency's evaluation, we will not substitute our judgment for that of the agency, but we will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's evaluation criteria and with applicable procurement statutes and regulations. See, e.g., *Patronus Sys., Inc.*, B-418784, B-418784.2, Sept. 3, 2020, 2020 CPD ¶ 291 at 5; *Deloitte Consulting, LLP*, B-412125.2, B-412125.3, Apr. 15, 2016, 2016 CPD ¶ 119 at 12. An offeror's disagreement with an agency's evaluation judgment of the relative merit of competing proposals, without more, is insufficient to establish that the agency acted unreasonably. *Id.*; see also, *Tatitlek Techs., Inc.*, B-416711 *et al.*, Nov. 28, 2018, 2018 CPD ¶ 410 at 9.

Under the training continuum element, Pond asserts that Putz did not meet the solicitation requirements because Putz failed to comply with the mandatory 40-hour firearm training requirement for armed incumbent guards where its proposed weapon system is different from that specified in the solicitation; that is, the CZ-75 BD (Police) model. Comments & Supp. Protest at 13-19; Supp. Comments at 1-5. Pond claims that the weapon system Putz proposed, the CZ-75 BD model, is not the "exact model" as the weapon system currently being used (*i.e.*, the CZ-75 BD (Police) model) therefore, the additional 40-hour firearm training requirement applied to both newly hired and incumbent Putz employees. Since Putz did not include this mandatory training in its transition timeline, the protester contends Putz's technical proposal was unacceptable and ineligible for award. Supp. Comments at 3. Alternatively, Pond claims the agency either waived or relaxed the specified weapon/incumbent firearms training requirements only for Putz, which allowed Putz to offer a shorter transition timeline while lowering its proposed costs. Comments & Supp. Protest at 18-19. The record does not support Pond's allegations.

DOS disagrees with the protester's claim that Putz's CZ-75 BD weapon system is not the same as the CZ-75 BD (Police) model, the weapon system currently in use on the incumbent contract. According to the agency, the CZ-75 BD model is not a different weapon system; rather, it is identical in every material aspect to the CZ-75 BD (Police) model. Therefore, firearms training for Putz's incumbent guards was not required. Supp. MOL at 2.

As relevant background, Ceska zbrojovka a.s. (CZ), the manufacturer of the CZ-75 BD (Police) model currently used on the incumbent contract, no longer manufactures that specific model. While CZ manufactures subsequent versions of the CZ-75, those models include a manual safety as opposed to a de-cocking mechanism, as used on the CZ-75 BD (Police) model. See, e.g., AR, Exh. 53, Pond FPR1 Technical Vol. at 37; Exh.127, Putz FPR3 Technical Vol. at 8.

Over several rounds of discussions, the agency addressed Putz's proposed firearms and the associated impacts on required firearm training. In response to those exchanges, Putz explained that it worked directly with CZ who agreed to manufacture a special production line of CZ-75 BDs for use on this contract. Specifically, the production line would include the same form, fit, and function as the CZ-75 BD (Police)

model used on the incumbent contract, including the de-cocking mechanism. See AR, Exh. 127, Putz FPR3 Technical Vol. at 4-6.

As support for their contention that the special production line will be essentially the same firearm as the incumbent firearm, the agency refers to a letter from CZ, submitted with Putz's fourth proposal revision (FPR4). *Id.* at 5; see also AR, Exh. 184, Award Determination at 18. In that letter, the manufacturer stated, in relevant part:

The CZ75BD is completely identical to the CZ75BD Police in terms of operation and use. Both weapons have a decock lever to switch from single action mode to double action. The differences are marginal, such as an existing checkering on the front of the pistol grip and a lanyard loop at the ["Police" version. The "Police" version is no longer produced! The user of a CZ75BD Police can operate a CZ75BD without retraining!

AR, Exh. 149, Putz Technical Resp. FPR4 at 5.

Where a dispute exists as to a solicitation's actual requirements, we will first examine the plain language of the solicitation. *Intelsat Gen. Corp.*, B-412097, B-412097.2, Dec. 23, 2015, 2016 CPD ¶ 30 at 8. Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions; to be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. *Crew Training Int'l, Inc.*, B-414126, Feb. 7, 2017, 2017 CPD ¶ 53 at 4; see also, *Glock, Inc.*, B-414401, June 5, 2017, 2017 CPD ¶ 180 at 8.

Notably, the RFP provides "[i]f the approved weapon system remains as what is currently in use, [the basic firearms training] requirement does not apply to incumbent employees[.]" RFP amend. 11 at 39. On the record before us, we find no basis to disagree with the agency's determination that the version of the CZ-BD 75 proposed by Putz is effectively the same make or model as the CZ-BD 75 (Police) model used on the incumbent contract. In this regard, the agency reasonably determined based on input from the manufacturer that the two firearms are materially identical in terms of the form, fit, and function of the weapons. To the extent the agency determined that immaterial changes that do not impact the use of the weapon, such as the checkering on the front of the pistol grip, were *de minimus* in nature and did not impact the use and associated training for the firearm, the protester has failed to demonstrate why that determination is unreasonable. Thus, we find no basis to conclude that the agency improperly waived or relaxed the solicitation's requirements for Putz.

Further, we find no merit to Pond's challenge that it was unreasonable for the agency to rely on the letter from the manufacturer that was included in Putz's fourth proposal revisions. Supp. Comments at 4. To the extent Pond argues, without any corroborating evidence, that the manufacturer's letter obtained by Putz is not credible, we are not persuaded. See, *id.* While the protester argues, again without any substantiated

rebuttal, that the letter is not credible because the manufacturer ostensibly has a financial interest in selling the firearms at issue, absent any evidence to suggest that the representation was false, it was reasonable for the agency to consider the representations from the manufacturer that its new production run will be materially identical in terms of use and functionality to the incumbent firearm also produced by the same manufacturer. See, e.g., *3M Scott Fire & Safety*, B-421025.2, B-421025.3, July 6, 2023, 2023 CPD ¶ 169 at 13 (“An agency may reasonably rely on information provided by an offeror in its proposal as being accurate.”); *Sierra7, Inc.; V3Gate, LLC*, B-421109 *et al.*, Jan. 4, 2023, 2023 CPD ¶ 55 at 9 (“Our Office has explained that where an agency has no information prior to award that would lead to the conclusion that the vendor, or the product or service to be provided, fails to comply with the solicitation’s eligibility requirements, the agency can reasonably rely upon a vendor’s representation/certification of compliance.”). Pond’s disagreement, without more, does not demonstrate that the agency’s underlying determination (*i.e.*, Putz did not propose a different weapon system than the one currently in use) was unreasonable. As discussed earlier, disagreement with the agency’s evaluation judgments does not provide a valid basis for protest. Accordingly, we deny the protest allegation.

Evaluation of Past Performance

The protester argues that the agency’s assignment of a relevancy rating of relevant and a confidence rating of satisfactory confidence to Putz’s proposal under the past performance factor was unreasonable and inconsistent with the RFP. Specifically, Pond argues that Putz’s past performance references were not relevant as defined by the RFP and any conclusion to the contrary lacks credible support in the contemporaneous evaluation record. See *generally*, Protest at 22-23; Comments & Supp. Protest at 26-27; Supp. Comments at 7-9. The agency generally responds that its past performance evaluation of Putz’s performance references was reasonable and consistent with the terms of the solicitation. MOL at 18-19; Supp. MOL at 5-6.

An agency’s evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror’s performance history, is a matter of agency discretion which we will not disturb unless the agency’s assessments are unreasonable or inconsistent with the solicitation criteria. *Metropolitan Interpreters & Translators, Inc.*, B-415080.7, B-415080.8, May 14, 2019, 2019 CPD ¶ 181 at 10; see also *Cyber Protection Techs., LLC*, B-416297.2, B-416297.3, July 30, 2018, 2018 CPD ¶ 270 at 6. The evaluation of past performance, by its very nature, is subjective and we will not substitute our judgment for reasonably based evaluation ratings; an offeror’s disagreement with an agency’s evaluation judgments, without more, does not demonstrate that those judgments are unreasonable. *GSI Constr. Corp.*, B-418084, Jan. 6, 2020, 2020 CPD ¶ 22 at 5; *FN Mfg., LLC*, B-402059.4, B-402059.5, Mar. 22, 2010, 2010 CPD ¶ 104 at 7.

As noted, the RFP required offerors to submit between six and ten security contracts or subcontracts of any size, performed in any location, over the past three years. RFP amend. 11 at 95. The RFP stated: “relevancy is a measure of the extent of similarity

between the service/support effort, complexity, dollar value, contract type, and subcontract/teaming or other comparable attributes of past performance examples and the source solicitation requirements; and a measure of the likelihood that the past performance is an indicator of future performance.” *Id.* at 100.

The RFP further stated that a confidence rating of satisfactory confidence was warranted when: “[b]ased on the offeror’s recent/relevant performance record, the [g]overnment has a reasonable expectation that the offeror will successfully perform the required effort. Little [g]overnment intervention is expected to be needed in order to obtain the required product/service.” *Id.*

In its proposal, Putz provided information for six contract references for evaluation under the past performance factor. AR, Exh. 25, Putz Initial Technical Proposal at 186-189. The TEP evaluated the past performance information and initially assigned a relevancy rating of somewhat relevant and a confidence rating of limited confidence, finding that Putz demonstrated its ability to provide unarmed guard services, but it had a limited past performance record of providing armed guard services for contracts of similar size and scope. AR, Exh. 39, Putz Initial TEP Eval. at 17-19.

Across multiple rounds of discussions, Putz responded to questions related to its past performance references. Specific to the provision of armed guard services, Putz provided additional narrative information in its discussion responses regarding its provision of temporary services in Germany providing armed guards for event security, transportation of valuable goods, and very important person protection. While Putz generally described this prior work, it did not submit contractual information to support the recency or relevance of such efforts in terms of the magnitude of the efforts, nor did it submit any qualitative information from the customers. Additionally, Putz highlighted that it maintains its own shooting range at its headquarters utilizing emergency training programs and simulation software, conducts a variety of in-house trainings with its own trainers, and currently has [DELETED] employees that have completed all training and licensing requirements in order to serve as armed guards. See AR, Exh. 175, Putz FPR5 at 231.

The TEP considered all of Putz’s past performance information in the aggregate, including the additional information provided regarding its experience providing armed guard services, and concluded that they demonstrated much of the magnitude of effort and complexities required by this solicitation. The TEP also considered information received regarding the quality of Putz’s prior performance which was generally rated very good. AR, Exh.32, Putz Past Performance Eval. at 1-5; AR, Exh. 184, Award Determination at 32. The TEP changed Putz’s relevancy rating from somewhat relevant to relevant, and its confidence assessment from limited confidence to satisfactory confidence. *Id.*; see also, MOL at 18-19; Supp. MOL at 5-6.

On the record before us, we need not resolve the merits of the parties’ contentions as to whether the agency’s consideration of the additional information supplied by Putz warranted the assessment of a rating of relevant, as, even assuming the agency’s

evaluation was unreasonable, our Office cannot reasonably conclude that the protester was competitively prejudiced by such an error. In this regard, competitive prejudice is an essential element of every viable protest, and where none is shown or otherwise evident, we will not sustain a protest, even where a protest may have shown that an agency's actions arguably were improper. *Intefor US, Inc.*, B-410622, Dec. 30, 2014, 2015 CPD ¶ 19 at 7.

Here, assuming the protester were to prevail on its claim that the agency unreasonably determined that the awardee's past performance was sufficiently relevant as to warrant a confidence rating of satisfactory, it is not reasonably apparent that the agency's award decision would materially differ. In this regard, if Putz was found not to have sufficiently relevant past performance, the only rating it could be assigned would be an unknown or neutral confidence rating. See RFP, amend. 11 at 100 (providing an unknown confidence (neutral) rating would be assigned where "[n]o recent/relevant performance record is available, or the offeror's performance record is so sparse that no meaningful confidence assessment rating can be reasonably assigned."); see *also* FAR 15.305(a)(2)(iv) ("In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably for past performance.").

The record reflects that both the TEP and the SSA recognized that Pond's relevant experience and the relevancy of its past performance were superior to Putz's comparable experience and past performance. See, e.g., AR, Exh. 184, Award Decision at 45, 49; see *also id.* at 48-49 (observing that, notwithstanding very relevant past performance, Pond warranted an overall satisfactory confidence assessment due, among other reasons, to performance concerns on Pond's incumbent contract). Notwithstanding these advantages, the agency nevertheless determined that Putz's proposal offered the best value to the government based on its superior rating under the most important transition and performance plan factor and its 30 percent price advantage. *Id.* at 49.

On the record before us, even assuming that the agency should have rated Putz's past performance no higher than neutral, it is not apparent that this change would have a material impact on the competitive standing of the parties. In this regard, the record reflects that the agency was fully conscious of--and credited Pond for--Pond's more relevant past performance, but nevertheless determined that Putz's assessed superiority under the most important transition and performance plan factor and its 30 percent price advantage offered the best value to the government. In light of these facts, we cannot conclude that any error in the evaluation of Putz's past performance would have materially changed the agency's award decision.

Best-Value Determination

Finally, Pond argues that the best-value determination was flawed because it was tainted by unreasonable underlying evaluations of both proposals. Comments & Supp. Protest at 30. The protester's allegations are derivative of its protest of the agency's

underlying evaluation. Since we find no basis to object to the underlying evaluation, we dismiss this argument because derivative allegations do not establish an independent basis of protest. *DirectVizSolutions, LLC*, B-417565.3, B-417565.4, Oct. 25, 2019, 2019 CPD ¶ 372 at 9.

The protest is denied.

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