



# Decision

**Matter of:** Landscape Management System, Inc.

**File:** B-423523.5; B-423523.6

**Date:** January 23, 2026

## DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This version has been approved for public release.

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## DIGEST

1. Protest taking issue with agency's failure to reopen discussions during corrective action is denied where agency reasonably concluded reopening discussions was not necessary to address errors in the procurement.
  2. Protest contentions that evaluation of proposals was unreasonable and that conduct of discussions was unequal, misleading, and non-meaningful are denied where record shows evaluation was consistent with the terms of solicitation and provided no basis to object to agency's conduct discussions with offerors.
  3. Protest challenging various aspects of evaluation of awardee's proposal and best-value tradeoff is dismissed where protester is ineligible for award, and, thus, not an interested party to raise these challenges.
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## DECISION

Landscape Management System, Inc. (LMS), a small business of Tamuning, Guam, protests the award of a contract to NOREAS, Inc., a small business of Irvine, California, under request for proposals (RFP) No. N40192-25-R-5000, issued by the Department of the Navy's Naval Facilities Engineering Command (NAVFAC) for hazardous waste services. The protester contends the agency failed to implement the corrective action the Navy represented it would take in response to an earlier protest filed by LMS with our Office. The protester also challenges the agency's new award decision, primarily taking issue with the evaluation of LMS's proposal as ineligible for award and related conduct of discussions. Additionally, the protester presents numerous arguments contesting the evaluation of the awardee's proposal and the resulting best-value tradeoff.

We deny the protest in part and dismiss the protest in part.

## BACKGROUND

On December 5, 2024, using the procedures of Federal Acquisition Regulation (FAR) part 15, the agency issued the solicitation as a small business set-aside. Agency Report (AR), Tab 3a, RFP at 1-2.<sup>1</sup> The solicitation sought proposals for the provision of “environmental services for hazardous waste, hazardous material, other regulated waste, and spill response for all Supported Components and Tenant Commands under Joint Region Marianas (JRM),” which includes Naval Base Guam, Andersen Air Force Base, Marine Corps Base Camp Blaz, and Joint Region Marianas offices, all located in Guam. *Id.* at 9, 12.

The solicitation contemplated the award of a single fixed-price, indefinite-delivery, indefinite-quantity (IDIQ) contract. RFP at 3. The IDIQ contract anticipated a 1-year base period of performance (which included a 1-month mobilization period) and four 1-year option periods. *Id.* at 3, 12, 53. In conjunction with award of the IDIQ contract, the agency intended to concurrently issue a task order for the mobilization and base period of performance, which would satisfy the contract’s minimum guarantee. *Id.* at 3. The total contract value for the base and all option periods would not exceed \$30 million. *Id.*

The solicitation established award would be made on a best-value tradeoff basis considering the following factors: (1) recent, relevant experience; (2) technical and management approach; (3) safety; (4) past performance; and (5) price. RFP at 55-56. Past performance was the most important non-price factor and was equal in importance to the three other non-price factors combined. *Id.* at 55. All four non-price factors combined were approximately equal in importance to price. *Id.* The solicitation advised that “[a]ny proposal found to have a deficiency. . . will be considered ineligible for award, unless the deficiency is corrected through discussions.” *Id.* Relatedly, any proposal receiving a rating of unacceptable for any of the non-price factors would “result in an overall rating of ‘Unacceptable’ for the non-price factors, unless corrected through discussions.” *Id.*

Relevant here, section L of the solicitation advised that “[p]age limits, where stipulated, must be adhered to.” RFP at 44. The page limits themselves were set forth in the “Basis of Evaluation and Submittal Requirements for Each Factor,” which was a

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<sup>1</sup> Our citations use the Adobe PDF pagination of documents in the record. The agency report includes several tabs that were produced as Adobe PDF portfolios including multiple documents without any sub-tabbing. For clarity, our citations add subtabs to the Adobe PDF portfolios produced in the agency report by lettering the documents in the order in which they appear in the portfolio. For example, tab 3 includes the initial RFP and six RFP amendments, with the initial RFP being the first document in the portfolio; accordingly, we cite to the initial RFP as Tab 3a.

subsection of RFP “Section M--Evaluation Factors for Award.” *Id.* at 55-56. Specific to the safety factor, the solicitation required offerors to submit a safety narrative that addressed, among other things, their approach to implementing and executing a safety management system (SMS), “to include the standard(s) used to benchmark the SMS.” *Id.* at 58-59. The solicitation stated the “Safety narrative shall be limited to two (2) single-sided pages or one (1) double-sided page.” *Id.* at 59. For the basis of evaluation, the solicitation provided the agency would assess an offeror’s safety narrative to “determine the degree to which the Offeror [d]escribes a viable SMS that addresses elements; such as . . . the standard(s) used to benchmark the SMS.” *Id.* at 59-60. The basis of evaluation reiterated the instruction that the safety narrative “shall be limited” to two pages and cautioned “[i]nformation on pages beyond this will not be considered.” *Id.* at 60.

The agency received five proposals, including those submitted by LMS (the incumbent) and NOREAS (the awardee). AR, Tab 17, Evaluation Report (Eval. Rpt.) at 3, 52; Contracting Officer’s Statement and Memorandum of Law (COS/MOL) at 2 n.2. The agency conducted discussions with, and received proposal revisions from, all five offerors; final proposal revisions (FPRs) were submitted in March of 2025. AR, Tab 17, Eval. Rpt. at 13. Based on FPRs, the Navy selected NOREAS’s proposal as the best value and made contract award on April 25. *Id.* at 14; AR, Tab 18, Memorandum for Record (MFR) at 1.<sup>2</sup>

Following notification of the April award decision, LMS and another unsuccessful offeror protested to our Office in May. AR, Tab 17, Eval. Rpt. at 14; Tab 18, MFR at 1. In June, LMS timely filed supplemental protest allegations. AR, Tab 18, MFR at 2. In response, the agency notified our Office of its intent to take corrective action. *Id.* at 3. Specifically, the Navy represented that “[a]fter reviewing and investigating allegations raised in the supplemental protests . . . the Agency discovered merit in at least one of those allegations.” *Landscape Mgmt. Sys., Inc., B-423523.2 et al.*, June 16, 2025 (unpublished decision) at 1. The Navy stated: “[t]he Agency therefore intends to reopen discussions with all offerors, request final proposal revisions, evaluate those revised proposals and make a new selection decision.” *Id.* Based on the agency’s proposed corrective action, we dismissed LMS’s protests of the initial April award decision as academic.<sup>3</sup> *Id.* at 2.

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<sup>2</sup> The contracting officer prepared the MFR “to document the chronology of events” and “decisions regarding the Agency’s corrective action”; the MFR is dated August 28, 2025. AR, Tab 18, MFR at 1.

<sup>3</sup> The agency also notified our Office of its intent to take corrective action in the protest filed by a second unsuccessful offeror, resulting in our dismissal of that protest as academic as well. *South Pacific Env’tl Guam, LLC, B-423523*, June 13, 2025 (unpublished decision).

The contemporaneous record reflects the contracting officer “perceived merit in two areas of concern” raised in LMS’s protest allegations. AR, Tab 18, MFR at 2. As part of the implementation of its corrective action, the Navy reevaluated offerors’ March 2025 FPRs. *Id.* at 4. Following this reevaluation, the contracting officer “determined another round of discussions with revised FPRs was not necessary because the re-evaluation remedied the concerns that caused the Agency to take corrective action” in response to LMS’s protest. *Id.* at 5.

During the reevaluation, the Navy assigned two offerors’ proposals a rating of unacceptable under at least one factor, resulting in those proposals being deemed ineligible for award. AR, Tab 17, Eval. Rpt. at 103. The remaining three offerors’ proposals were all evaluated as eligible for award. *Id.* at 104. Specific to the protester and awardee, the reevaluation of their March 2025 FPRs was as follows:

	LMS	NOREAS
<b>Recent Relevant Experience</b>	Outstanding	Outstanding
<b>Technical and Management Approach</b>	Good	Good
<b>Safety</b>	Unacceptable	Good
<b>COMBINED OVERALL TECHNICAL</b>	UNACCEPTABLE	GOOD
<b>Past Performance</b>	Satisfactory Confidence	Satisfactory Confidence
<b>Price<sup>4</sup></b>	\$19,872,424	\$17,367,463

*Id.* Based on the reevaluation, the contracting officer, who was also the source selection authority (SSA), again selected NOREAS’s proposal as representing the best value to the government. AR, Tab 19, Source Selection Decision at 2.

On August 29, 2025, the agency notified LMS the Navy had completed its corrective action and reaffirmed the selection of NOREAS’s proposal for contract award. AR, Tab 22, LMS Unsuccessful Offeror Notice at 1. Additionally, the agency informed LMS:

In implementing corrective action, the Government painstakingly re-evaluated all offerors’ FPRs submitted to the Government on or before 12:00 p.m. (ChST)<sup>[5]</sup> on 26 March 2025. While the Government had initially intended to re-open discussions and request further proposal revisions, the Contracting Officer determined those steps were not necessary because re-evaluation of FPRs remedied the concerns that caused the Government to take corrective action.

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<sup>4</sup> We rounded prices to the nearest dollar.

<sup>5</sup> ChST is the abbreviation for the Chamorro time zone during standard time; Chamorro is the time zone observed in Guam and the Northern Marianas Islands. [www.timeanddate.com/time/zones/chst](http://www.timeanddate.com/time/zones/chst) (last visited Dec. 31, 2025).

*Id.* at 2.

Also on August 29, the Navy provided LMS with a written debriefing. AR, Tab 23, LMS Debriefing at 1. On September 3, LMS timely submitted follow-up questions in accordance with the Department of Defense's enhanced debriefing procedures. AR, Tab 24, LMS Debriefing Questions at 1. On September 10, the agency responded to LMS's follow-up questions and closed the debriefing. AR, Tab 25, Resp. to LMS Debriefing Questions at 1, 12. This protest followed on September 15.<sup>6</sup>

## DISCUSSION

The protester contends the Navy failed to reasonably implement the corrective action the agency represented it would undertake in response to LMS's protest of the initial award decision. The protester also takes issue with the agency's evaluation of proposals, conduct of discussions, and the resulting best-value tradeoff. The gravamen of the protester's issues is its challenge to the evaluators' assessment of a deficiency in--and assignment of a rating of unacceptable to--LMS's proposal, which resulted in LMS being found ineligible for award. While we do not discuss herein every argument, or permutation thereof, presented by LMS, we have considered them all and find none provides a basis to sustain the protest.<sup>7</sup>

### Corrective Action Challenge

As noted above, in response to LMS's protest of the initial award decision, the agency notified our Office of its intent to take corrective action, specifying that it would "reopen discussions with all offerors, request final proposal revisions, evaluate those revised proposals and make a new selection decision." *Landscape Mgmt. Sys., Inc.*, B-423523.2 *et al.*, June 16, 2025 (unpublished decision) at 1. The protester argues the Navy's failure to implement its announced corrective action by reopening discussions and requesting new FPRs was arbitrary, capricious, unreasonable, and failed to remedy

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<sup>6</sup> Our Electronic Protest Docketing System (Dkt.) reflects that LMS filed its protest on September 13, 2025, which was a Saturday. Dkt. No. 1. In accordance with our Bid Protest Regulations, we consider LMS's protest to have been filed on the next day that was not a Saturday, Sunday, or Federal holiday, which here is Monday September 15th. 4 C.F.R. § 21.0(d).

<sup>7</sup> For example, the protester asserts the awarded contract differs materially from the pricing structure set forth in section B of the solicitation, indicating that the agency failed to solicit offers based on its actual requirements. Protest at 63. The record does not support the protester's assertion, and instead shows the awarded contract and issued order for the base period are in harmony with RFP section B. *Compare* RFP at 4 *with* AR, Tab 15, NOREAS Contract, SF-33 at 4-5; *see also* AR, Tab 15, NOREAS Contract, Mobilization & Base Period Order at 2.

the flaws in the procurement pointed out in LMS's earlier protest of the initial award decision. Protest at 23; see *also* Supp. Protest at 13.

### Timeliness

The protester asserts that "once a proposed/announced plan of corrective action is identified by the procuring agency, there is an obligation to implement that corrective action in a timely manner and remedy the problem." Protest at 24. The protester maintains that "most of the concerns raised" in LMS's earlier protest "could not have been corrected without re-opening discussions with it and all other offerors in the competitive range and without" obtaining new FPRs. *Id.* at 25-26 (emphasis omitted). According to the protester, "the Navy's Contracting Officer, without any notice to GAO, LMS, or any offeror, decided to change the rules of the game by dispensing with the promised reopening or a call for new FPRs, opting instead to just 're-evaluate' offerors March 26, 2025 FPRs." *Id.* at 26. In the LMS's view, the Navy's reevaluation was "an exercise in futility" and the protester claims that both "[i]t and the resulting source selection decision were arbitrary, capricious and unreasonable." *Id.*

The agency and NOREAS, as the intervenor, request dismissal of LMS's challenge to the Navy's implementation of corrective action as untimely. Req. for Dismissal at 11; Intv. Resp. to Req. for Dismissal at 1; COS/MOL at 2; Intv. Comments at 1-2. According to the Navy and intervenor, the protester's corrective action challenge is analogous to a solicitation impropriety challenge to which the debriefing exception under our timeliness rules does not apply. *Id.* The protester insists this is a mischaracterization of its arguments, which it paints as "complaints about the adverse effects" resulting from the corrective action. Resp. to Req. for Dismissal at 14.

Our Office has considered various protests concerning the timeliness, and adequacy, of an agency's proposed corrective action. For example, in *Domain Name Alliance Registry*, B-310803.2, Aug. 18, 2008, 2008 CPD ¶ 168, the protester argued the agency could not properly re-award the contract, pursuant to an earlier corrective action, without holding discussions with it--as it did with the awardee prior to the initial award decision--and without allowing the protester to submit a revised proposal addressing certain identified weaknesses. *Id.* at 7. We found this allegation, raised after the second award decision, which challenged the way in which the agency conducted its corrective action and recompetition, was analogous to a challenge to the terms of a solicitation and therefore untimely. *Id.* The protester, under those circumstances, simply could not wait until after the second award decision to raise such a challenge where the agency's actions clearly indicated the agency did not contemplate holding discussions with offerors. *Id.* at 8.

In subsequent decisions, we have distinguished the process by which an agency takes corrective action from the end result of an agency's corrective action. As we have explained, an objection to the ground rules under which the agency will conduct its corrective action and re-competition is analogous to a challenge to the terms of the solicitation and must be filed within the time limitations set forth in 4 C.F.R. § 21.2(a)(1).

*WorldWide Language Resources, Inc.*, B-418767.5, July 12, 2022, 2022 CPD ¶ 180 at 8; *Millennium Eng'g and Integration Co.*, B-417359.4, B-417359.5, Dec. 3, 2019, 2019 CPD ¶ 414 at 5-7. In contrast, where an agency's announced corrective action does not change the ground rules for the competition, we have dismissed challenges to the adequacy of the corrective action brought before award as premature. *HeiTech-PAE, LLC*, B-420049.7, Nov. 15, 2021, 2021 CPD ¶ 361 at 3.

While the protester crafts its challenge as a ground rules challenge--taking issue with the contracting officer's decision "to *change the rules of the game* by dispensing with the promised reopening or a call for new FPRs,"--we conclude the protest is more appropriately characterized as a challenge to the manner in which the agency implemented its corrective action. Protest at 26 (emphasis added). The record here reflects the agency decided to change the ground rules of the recompetition during implementation of its corrective action, but it also reveals the Navy did not notify offerors of the changed ground rules until after completing corrective action implementation and making a new source selection decision. We decline to extend the formulation of our timeliness rules expressed in *Domain Name* to a situation where, as here, the protester did not learn of the ground rules change until after award. Rather, we consider LMS's challenge to be to the end result of the corrective action--i.e., the agency's reevaluation of proposals and new source selection decision. See e.g., *WorldWide Language Resources, Inc.*, *supra* at 9 (declining to dismiss post-award protest where "[e]ven with the limited nature of the agency's corrective action, there was a possibility that award could have been made to WorldWide based on the reevaluation," such that any pre-award protest challenging the reevaluation would have been premature).

### Implementation

We turn now to the protester's contention the agency implemented its corrective action in a manner that was arbitrary, capricious, unreasonable, and failed to remedy the flaws in the procurement pointed out by LMS's earlier protest. As noted above, the protester maintains the agency was obligated to reopen discussions because that is what the Navy told our Office it intended to do as part of its corrective action in response to the earlier protest, and it was the only way to remedy the concerns raised in LMS's earlier protest. Protest at 24-26.

Contracting officers in negotiated procurements have broad discretion to take corrective action where the agency determines that such action is necessary to ensure a fair and impartial competition, and, as a general rule, the details of corrective action are within the sound discretion and judgment of the contracting agency. *Alliant Techsystems, Inc.*, B-405129.3, Jan. 23, 2012, 2012 CPD ¶ 50 at 7. Our decisions have recognized that the mere promise of corrective action--without implementation--has the effect of circumventing the goal of the bid protest system of effecting the economic and expeditious resolution of bid protests. *Envirosolve LLC*, B-294974.4, June 8, 2005, 2005 CPD ¶ 106 at 7. We do not find it to be the case here that the agency has merely promised but not implemented corrective action. Rather, for the reasons explained below, we conclude the agency reasonably determined reevaluation of proposals,

without reopening discussion as originally intended, was sufficient to remedy the errors the agency found in the procurement.

The record reflects that in reviewing LMS's earlier protest challenging the initial April 2025 award decision, the contracting officer "perceived merit in two areas of concern." AR, Tab 18, MFR at 2. Both areas related to evaluation of the awardee's March 2025 FPR. *Id.* In reevaluating offerors' FPRs as part of implementing the Navy's corrective action, the source selection evaluation board (SSEB) specifically assessed these areas of concern with the awardee's FPR and "confirmed that NOREAS'[s] proposal was eligible for award." *Id.* at 5. The contracting officer determined the reevaluation sufficiently remedied the two areas of concern that caused the agency to take corrective action in response to LMS's earlier protest, and that reopening discussions and permitting further proposal revisions was not necessary after all. *Id.* While the protester expresses its disagreement with this determination, it has not shown it was unreasonable.<sup>8</sup>

Of greater relevance to the protester's objection to the agency's corrective action implementation is a procurement error the evaluators discovered during reevaluations. The agency explains that during reevaluation, it "realized an unintentional error caused by its request for clarification to SPE [South Pacific Environmental Guam, LLC--another unsuccessful offeror] on 05 March 2025 regarding SPE's revised non-price proposal of 03 March 2025." AR, Tab 18, MFR at 5. In response to discussions, SPE submitted a 32-page proposal revision, but that revision did not comply with the formatting instructions of how to indicate changes, which the agency provided to SPE as part of its evaluation notice (EN) for discussions. AR, Tab 18, MFR at 5; see *also* Tab 31, Email Chain Between Agency and SPE at 3-4. On March 5, the agency emailed SPE to inform them the proposal revisions did not comply with the EN's formatting requirements for showing changes, and required the firm to "provide an updated copy of your non-price proposal revision which complies with the instructions" by March 6. AR, Tab 18, MFR at 5; Tab 31, Email Chain Between Agency and SPE at 1-2. On March 6, SPE responded with an updated proposal revision. AR, Tab 18, MFR at 5; Tab 31, Email Chain Between Agency and SPE at 1. The original SSEB evaluated the March 6 proposal revisions from SPE without realizing those revisions were a 50-page document, rather than a 32-page document, as had been submitted on March 3. AR, Tab 18, MFR at 5. In other words, it appears SPE not only corrected the formatting error in the March 6 proposal, but also made additional revisions not present in the March 3 proposal.

Between June 17 and August 7, the agency conducted the corrective action reevaluation. At that time, the SSEB discovered the difference between SPE's 32-page March 3 proposal revision submission and the firm's 50-page March 6 proposal revision

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<sup>8</sup> The protester also challenges the reevaluation of the awardee's proposal under multiple factors; as explained below, however, LMS is not an interested party to raise these challenges.



submission. AR, Tab 18, MFR at 5. The Navy concluded “this unintentional error caused unequal discussions as the Government’s request allowed only SPE and none of the other Offerors to update their revised submittal before the request for FPRs.” *Id.* To remedy this error, the SSEB “corrected its review and evaluation of SPE’s revised non-price proposal from SPE’s updated 50-page revised submittal to SPE’s 32-page revised submittal.” *Id.*; AR, Tab 17, Eval. Rpt. at 18, 20, 24, 28, 31. Based on the reevaluation of SPE’s March 3, rather than its March 6, FPR, the evaluators assigned the firm’s proposal a rating of unacceptable under two of the three non-price factors, and deemed SPE’s proposal “un-awardable.” AR, Tab 17, Eval. Rpt. at 15-16. This assessment was based, in part, on SPE’s failure to comply with the solicitation’s page limitations under the safety factor (similar to the issue suffered by the protester’s proposal, discussed in detail below). *Id.* at 28.

The protester argues the agency engaged in disparate treatment when it permitted SPE, but not LMS, the opportunity to correct a perceived deficiency in its March 3 proposal revision. Supp. Protest at 5. The protester maintains that “[o]nce the request for a revised proposal was made [to SPE] on March 5, 2025, it could not be undone,” and, as a result, “NAVFAC was obligated to afford LMS the same opportunity to address the perceived issue in its March 3, 2025 submittal.” *Id.* at 8 (emphasis omitted). The protester contends “the only reasonable/responsible course of action” once the agency discovered what had occurred during discussions with SPE, “would have been for NAVFAC to re-open discussions” with LMS. *Id.* at 9.

Here, the agency acknowledges that prior to making the initial April 2025 source selection decision, it engaged in unequal discussions with SPE. AR, Tab 18, MFR at 5. Rather than correcting this error by reopening discussions, however, the contracting officer determined the error could be remedied by rewinding the clock on SPE’s discussions and having the evaluators reassess only the firm’s March 3 proposal revisions, without considering the later March 6 revisions that resulted from the unequal discussions. *Id.*

As noted, contracting officials have broad discretion to take corrective action. An agency’s discretion in the area of corrective action extends to deciding the scope of proposal or quotation revisions, and there are circumstances where an agency may reasonably decide to limit the revisions offerors may make to their submissions. *Domain Name Alliance Registry, supra* at 8 (finding an agency’s decision, as part of corrective action, to disregard discussions that had occurred with one offeror to be reasonable). We will not object to any particular corrective action, so long as it is appropriate to remedy the concern that caused the agency to take corrective action. *Quotient, Inc.*, B-416473.4, B-416473.5, Mar. 12, 2019, 2019 CPD ¶ 106 at 3-4.

Here, while it is quite uncommon for an agency to try to “unring a bell,” and exclude consideration of additional information received from an offeror, we think, under the circumstances, the agency’s actions were a reasonable means of remedying the discussions error the Navy discovered during reevaluation. See e.g., *Quotient, Inc., supra* at 7 (finding reasonable agency’s corrective action taken to remedy allegations of

bias by convening a new evaluation panel with all new members who were not made aware of the earlier evaluation or the technical clarification questions and vendor responses that were a part of the earlier evaluation). Accordingly, we find no basis to object to the contracting officer's determination that the concerns which caused the agency to take corrective action and other errors discovered with the procurement were remedied without the need for reopening discussions or requesting further proposal revisions from offerors, and we deny this ground of protest.<sup>9</sup>

#### Evaluation of Protester's Proposal and Conduct of Discussions

The protester challenges the assessment of a deficiency in and assignment of a rating of unacceptable to LMS's proposal under the safety factor, maintaining that the evaluation lacks a reasonable basis and is inconsistent with the solicitation. See *generally* Protest at 27-33. Relatedly, the protester contends the agency conducted discussions in a manner that was misleading, not meaningful, and unequal. *Id. generally* at 34-38; Supp. Protest *generally* at 4-12, 16-17. The agency maintains "LMS'[s] final proposal contained an undeniable and undisputed deficiency that, by the RFP's clear terms, renders LMS'[s] final proposal ineligible for award." COS/MOL at 2. We agree with the agency.

#### Additional Background

As noted above, the solicitation required offerors to include in their proposals a safety narrative, mandated a two-page limit for the narratives, and specifically cautioned offerors that information that exceeded the two-page limit would not be considered. RFP at 58-60. The solicitation set forth several topics offerors were required to address in their safety narratives, including benchmark standards for their safety systems. *Id.* LMS's initial proposal included a two-page safety narrative submission. AR, Tab 4a, LMS Initial Non-Price Proposal at 52-53 (internal pages 44-45).

The record reflects that, during the initial evaluation--before the corrective action reevaluation--the agency conducted written discussions with offerors by issuing ENs. AR, Tab 7a, LMS EN Transmittal Email at 1; Tab 7b, LMS EN at 1. In pertinent part, the EN instructed as follows.

Enclosure (1) identifies deficiencies/weaknesses/uncertainties as indicated and discussion questions regarding your non-price related

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<sup>9</sup> We note, even were we to find merit in the protester's allegation of disparate treatment between LMS and SPE--which we do not--the protester could not have suffered prejudice based on the agency's actions. For example, our Office has explained that when an agency conducts discussions with another unsuccessful offeror, but does not conduct discussions with the protester or the awardee, the protester cannot demonstrate prejudice. *Qwest Gov't. Servs., Inc. d/b/a CenturyLink QGS*, B-419271.4, B-419271.7, Apr. 14, 2021, 2021 CPD ¶ 169 at 9-10 n.7.

factors proposal. Please provide a response to each question. In order to be binding, your responses must be included in your non-price related factors proposal. Therefore, ensure the location of the response to each question is identified in your revised non-price related factors proposal (i.e., Volume, Table No., Paragraph No., Page No., etc.). Provide all proposal revisions as replacement pages. . . . Clearly mark the areas that you have revised in your proposal. . . . Please do not repaginate. If your revision exceeds the original page, paginate using numeric-alpha (for example, an addition to page 1 would be page 1a, 1b, etc.). A complete resubmission of the non-price related factors proposal is not required or desired at this time, however a clean copy of the full proposal may be requested at Final Proposal Revision (FPR). Original page limitation set forth in the solicitation or any subsequent amendments still apply to the FPR.

*Id.* at 1.

Relevant here, one of the concerns the evaluators identified in LMS's initial proposal was a deficiency under the safety factor. AR, Tab 7c, LMS EN Email encl. 1, Non-Price Discussion Questions at 2. Specifically, the EN stated:

Deficiency: LMS'[s] technical approach to safety does not describe a viable SMS that addresses standards used to benchmark the SMS. Please address this in your technical approach to safety proposal in accordance with the solicitation.

*Id.* On March 3, 2025, LMS responded to the EN with its proposal revisions. AR, Tab 9a, LMS EN Resp. Transmittal Email Chain at 1. In responding to the EN, LMS submitted "amended and removed pages from [its] proposal," and provided the following instructions regarding how to incorporate the revision pages into the firm's proposal:

Red X's across the pages indicate sections that are being removed.  
A blue vertical line on the left hand margin indicates a page that has been added to the proposal (with a corresponding page number and letter respective of its location in the proposal) or a page that has been altered within the proposal. Such alterations will be visible as modifications in bold blue type or as red strikethrough text for removals.

AR, Tab 9b, LMS EN Resp. at 1. Specific to the deficiency assessed in LMS's proposal under the safety factor, the firm responded:

A section marked "Assessing Benchmarks" has been included as pages 45a and 45b. It is an extension to the Factor 3 [safety factor] section of the proposal and can be found in the NON Price Document.

*Id.* at 4. The record shows the proposal revision pages submitted by LMS included the referenced “extension” pages 45a and 45b adding material to the safety narrative included in LMS’s initial proposal, but did not include any pages marked with red x’s or otherwise indicate that LMS was removing any material from the safety narrative in its initial proposal. AR, Tab 9c, LMS Non-Price Proposal Revisions at 44-45.

On March 21, after receiving offerors’ EN responses and proposal revisions, the agency concluded discussions and requested FPRs. AR, Tab 11, LMS FPR Letter at 1. The agency’s request instructed as follows:

We have concluded discussions for the subject solicitation. The Government requests for Final Proposal Revisions (FPR) no later than 12:00 pm (ChST) on 26 March 2025.

If there is no change to your last non-price and price proposal, please provide a response via e-mail that states there is no change to your offer submitted on 03 March 2025. . . .

Alternatively, Offerors may submit an FPR that includes changes to your non-price and/or price proposal. Offerors must submit a complete non-price and price proposal that incorporates all revisions into a single conformed copy. Your FPR should include revisions to document understanding or agreements reached during discussions. Please ensure your FPR clearly identifies all changes to your last proposal so they are not overlooked in our final review. The Government intends to make an award without further revisions.

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Original page limitation set forth in the solicitation or any subsequent amendments still apply to the FPR.

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Upon receipt of FPR or an email that states there is no change to your offer submitted on 03 March 2025, the Government intends to make an award without further revisions.

*Id.* at 1-2 (emphasis omitted).

The record shows that LMS responded to the request for FPRs on the same day it received it--March 21, which was five days before the FPR due date of March 26. AR, Tab 12, LMS FPR Resp. at 1. The firm’s response was an email with the subject line “Re: RFP No. N40192-25-R-5000--Final Proposal Revision (LMS).” *Id.* The response stated in its entirety: “This is to inform you that no change to our offer, submitted on 03 March 2025.” *Id.* As LMS opted not to submit a conformed FPR incorporating all its

revisions, and instead indicated there were no changes to its March 3 proposal revisions, the agency “treated that submission as LMS’[s] FPR.” AR, Tab 17, Eval. Rpt. at 50, 53, 55, 58.

Because LMS’s March 3 proposal revisions added two pages--45a and 45b--to its safety narrative, but did not identify any material to be removed from the firm’s original safety narrative, which also was two-pages in length, the safety narrative in LMS’s final proposal was four pages long. AR, Tab 17, Eval. Rpt. at 54. The record reflects, the evaluators “did not consider pages 45a and 45b as the RFP clearly stated that the Technical Approach to Safety Narrative shall be limited to two (2) single-sided pages or one (1) double sided page and that information on pages beyond this will not be considered (RFP Factor 3, para (ii)(C)4).” *Id.* As a result, the evaluators continued to find that LMS’s final proposal “did not describe a viable SMS as required in the RFP because LMS did not include the standards its SMS is benchmarked against within the page limitation prescribed in the RFP, which is a noted deficiency in the revised proposal.” *Id.* at 54-55 (emphasis omitted). The evaluators concluded:

LMS’[s] safety proposal did not meet requirements of the solicitation with one (1) noted deficiency and risk of unsuccessful performance is unacceptable. Proposal is unawardable. Accordingly, LMS’[s] rating for safety is Unacceptable.

*Id.* at 55 (emphasis omitted). The evaluators’ conclusion remained unchanged during reevaluation of proposals performed as part of the agency’s implementation of corrective action. *Id.* at 55-56.

#### Application of Page Limitation to Protester’s Proposal

The protester maintains “[t]he RFP did not limit LMS’[s] responses to NAVFAC’s EN or revisions proposal for Factor 3 Safety proposal to two (2) pages.” Protest at 27 (emphasis omitted). The protester acknowledges that the solicitation limited offerors’ safety narrative submissions to two pages, but contends this limitation applied only to “initial proposals” because “nothing in the RFP or in any Amendments extended those [page] limitations to information presented by offerors in response to ENs, in response to other discussions, or, for that matter, to any revised proposals or FPRs.” *Id.* at 28 (emphasis omitted). Further, the protester acknowledges that the EN received by LMS as part of discussions stated the solicitation’s page limitations continued to apply but asserts “the Government never made any attempt to formally amend its RFP to incorporate any such directions into the submittal instructions or the evaluation scheme in Section M of the RFP.” *Id.* at 31 (emphasis omitted).

The agency points to this same RFP language limiting safety narratives to two pages and to the same language in the EN and letter requesting FPRs advising offerors that the solicitation’s original page limitations still applied to proposal revisions. COS/MOL at 6. In contrast to the protester, however, the agency offers this language as support for its argument that the solicitation’s “two-page limit always controlled.” *Id.*

As a general matter, offerors must prepare their proposals within the format limitations set out in an agency's solicitation, including any applicable page limits. *Unico Mech. Corp.*, B-419250, Oct. 29, 2020, 2020 CPD ¶ 337 at 5. Offerors that exceed a solicitation's established page limitations assume the risk that the agency will not consider the excess pages. *Benaka Inc.*, B-418639, July 9, 2020, 2020 CPD ¶ 371 at 5.

Here, it is undisputed that the solicitation established a two-page limitation for offerors' safety narratives. The record also clearly shows that combining the two-page safety narrative included in LMS's initial proposal with the two extension pages included in the firm's proposal revisions creates a safety narrative that is four pages long. The only question in dispute then, is whether the solicitation's mandatory two-page limit applied to *only* offerors' initial proposals, or whether it also applied to offerors' revised proposals as the agency stated in its discussions EN and request for FPR.

The protester does not reference--and we are not aware of--any statute or regulation that requires an agency to amend a solicitation in order to continue to apply a clearly mandated page limitation to all iterations of offeror's proposal. See e.g., *DPK Consulting*, B-404042, B-404042.2, Dec. 29, 2010, 2011 CPD ¶ 12 at 5-6 (noting that protester's emailed response to discussion questions and request for FPRs violated solicitation's original 30-page limit for technical proposals by increasing it to 35 pages). Nor is an agency obligated to sort through an offeror's proposal to try and decide which pages should or should not be counted toward a clearly stated page limitation. *JJ Global Servs., Inc.*, B-418318, Feb. 7, 2020, 2020 CPD ¶ 70 at 3. Accordingly, we deny the protester's challenge to the agency's application of the RFP's page limit to LMS's revised proposal, as the application was both reasonable and consistent with the solicitation. See e.g., *id.*; *Unico Mech. Corp.*, *supra* at 5 (denying protest where protester's unreasonable reading of solicitation resulted in submission of proposal that exceeded page limitations).

#### Conduct of Discussions with Protester

Intertwined with its challenge to the application of the solicitation's page limits to LMS's proposal, are the protester's contentions that the agency engaged in misleading and non-meaningful discussions. Specifically, the protester argues: "Neither NAVFAC's EN nor its March 21, 2025 Request for FPRs warned offerors that inclusion of any additional numeric-alpha numbered pages to their March 3, 2025 Proposal revisions had to fit within any page limitations to avoid a finding that the proposal was 'Unacceptable' or 'unawardable.'" Protest at 32 (emphasis omitted). The protester represents the only reason it included two additional pages for its safety narrative as pages 45a and 45b in its proposal revisions is because of the instructions in the EN to not repaginate and instead use numeric-alpha pagination for additional pages. *Id.* at 36. The protester insists "nothing in the EN suggested that NAVFAC's evaluators would later refuse to consider these additional 'numeric-alpha' pages or discard any additional pages (or portions thereof) just because they may have been additions instead of replacement pages to the" initial proposal. *Id.* But for these misleading discussions instructions, the protester maintains, LMS would not have had its proposal deemed

ineligible for award. *Id.* at 35. The agency maintains “LMS’[s] attempt to now argue a lack of understanding about how to submit its proposal revisions is belied by the facts.” COS/MOL at 5.

When discussions are conducted in a negotiated procurement, they must be meaningful, equitable, and not misleading. *Amentum Servs., Inc.*, B-421183 *et al.*, Jan. 17, 2023, 2023 CPD 24 at 12. To be meaningful, discussions must be sufficiently detailed and identify the deficiencies and significant weaknesses found in an offeror’s proposal that reasonably could be addressed so as to enhance materially the offeror’s potential for receiving award. FAR 15.306(d)(3); *General Dynamics Info. Tech., Inc.*, B-417616.2 *et al.*, Mar. 31, 2020, 2020 CPD ¶ 132 at 11. To be equitable, discussions are not required to be identical among offerors, but need only be tailored to each offeror’s proposal. *Amentum Servs., Inc.*, *supra* at 12. Further, an agency may not mislead an offeror--through the framing of a discussion question or a response to a question--into responding in a manner that does not address the agency’s concerns, or misinform the offeror concerning a problem with its proposal or about the government’s requirements. *SeaTech Security Solutions; Apogee Group, LLC*, B-419969.6, B-419969.7, Apr. 21, 2023, 2023 CPD ¶ 104 at 11. The actual content and extent of discussions are matters of judgment primarily for determination by the agency involved, and we generally limit our review of the agency’s judgments to a determination of whether they are reasonable. *Tyonek Eng’g & Agile Mfg., LLC*, B-421547, B-421547.2, May 26, 2023, 2023 CPD ¶ 125 at 12.

Here, contrary to the protester’s insistence that nothing in the EN suggested excess pages would be disregarded, our review of the record confirms the EN expressly advised the solicitation’s original page limitations continued to apply. AR, Tab 7b, LMS EN at 1. Nor does the record reflect that the protester was misled or confused by the EN’s instructions. Instead, the record shows LMS understood precisely how to submit its proposal revision pages and text to have them treated as replacing--rather than being additional--information in the firm’s initial proposal. As noted above, LMS included with its EN response instructions for how to treat its proposal revisions. The firm’s instructions provided that: (1) removed pages would be indicated with red x’s; (2) added pages would be indicated with a “blue vertical line” on the left-hand margin; (3) modified text would be shown in “bold blue type” and text removals would be indicated with “red strikethrough.” AR, Tab 9b, LMS EN Resp. at 1.

Proposal revision pages 45a and 45b included a blue vertical line on the left-hand margin and were entirely in blue text, indicating the addition of pages and modified text; the pages did not include any red strikeouts or red x’s to indicate text or page removal. AR, Tab 9c, LMS Non-Price Proposal Revisions at 44-45. In contrast, other sections of the 50-plus proposal revision pages submitted by LMS included blue text to indicate modified text and red strikeouts to indicate removed text. See *e.g.*, *id.* at 1, 20, 41. Similarly, where LMS intended to remove and replace an entire page from its initial proposal, consistent with its stated instructions, the firm submitted pages marked with red x’s followed by replacement pages marked with blue vertical lines. See *e.g.*, *id.* at 2-7, 25-33.

The record reflects that LMS submitted only additive pages to its safety narrative, without also marking for removal some of the existing text in the initial proposal. While this error may have been inadvertent, it does not reflect, as the protester claims, that the firm was misled or confused by the EN. It is possible that had LMS availed itself of the opportunity provided by the agency to incorporate all the firm's proposal revisions with the firm's initial proposal into a single conformed copy, the protester might have discovered the error and corrected it through submission of a further revised FPR prior to the March 26 due date established in the agency's March 21 request for FPRs. See AR, Tab 11, LMS FPR Letter at 1.

Instead, LMS used the other option provided by the agency--to respond by email that there were no further changes since submission of the firm's March 3 EN response and proposal revisions. AR, Tab 12, LMS FPR Resp. at 1. As a result of LMS's business decision, the evaluators combined the firm's initial proposal with its March 3 proposal revision pages and discovered the final safety narrative was two pages too long.<sup>10</sup> The Navy's discussions with LMS were not rendered misleading simply because LMS made an independent business decision it now regrets. See e.g., *SeaTech Security Solutions; Apogee Group, LLC, supra*, at 15 (finding discussions were not misleading where agency accurately conveyed negative finding regarding protester's organizational structure; protester chose to explain, rather than revise; and agency found explanation failed to address concern). Therefore, we find no merit to this ground of protest.

#### Conduct of Discussions with Awardee

The protester also alleges the agency conducted discussions in an unequal manner *vis-à-vis* LMS and NOREAS. Supp. Protest *generally* at 10-12. Relevant here, the agency included RFP amendment 5 with the ENs sent to offerors as part of discussions; the amendment included a new pricing workbook. AR, Tab 7b, LMS EN at 1; Tab 7e,

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<sup>10</sup> As LMS elected not to submit a conformed FPR but instead relied on the twin submissions of its initial proposal and March 3 proposal revision pages as its final proposal, the protester insists this means it did not submit an FPR. Comments at 10. Further, because the agency's request for FPRs purportedly applied the solicitation's original page limitations *only* to FPRs, the protester argues the page limitations did not apply to LMS's non-FPR submissions, which the agency improperly treated as an FPR. *Id.* at 10-11. This argument is devoid of merit. The protester submitted an initial proposal and later submitted a 50-plus page set of proposal revisions, these documents, combined, constitute LMS's final proposal, and the protester's insistence that this combined document is something other than an FPR is a distinction without a difference. Moreover, we note that three of the other five offerors also chose not to submit a conformed FPR, as LMS did, and the agency treated all four offerors the same--considering their combined initial proposals and proposal revisions submitted in response to discussions ENs as constituting the firms' FPRs. AR, Tab 17, Eval. Rpt. at 20, 24, 28, 31, 35, 39, 41, 43, 64, 68, 70, 72-73.



LMS EN Encl. 3, RFP Amend. 5 at 1-2; Tab 8b, NOREAS EN at 1; *see also generally* Tab 7f, LMS EN Encl. 3, RFP Amend. 5, Encl. 1, Pricing Workbook.

Specifically, the agency's EN stated the revised pricing workbook was "provided for your review and incorporation into your proposal," and instructed offerors to "[p]lease ensure the revisions and changes reflected in Amendment 0005 are addressed in your proposal." AR, Tab 7b, LMS EN at 1; Tab 8b, NOREAS EN at 1. Somewhat confusingly, each offerors' individual price discussion questions also stated: "You also *may revise your price proposal, if so desired.*" AR, Tab 7d, LMS EN Encl. 2, Price Discussion Questions at 1; Tab 8d, NOREAS EN Encl. 2, Price Discussion Questions at 1 (emphasis added).

In responding to its EN, NOREAS acknowledged RFP amendment 5. AR, Tab 10a, NOREAS EN Resp. at 3. Specifically in response to the agency's direction that "[y]ou may also revise your price proposal, if so desired," the awardee stated: "NOREAS elects to not revise our price proposal at this time." *Id.* After receiving NOREAS EN response, the contract specialist emailed NOREAS to confirm receipt of the firm's proposal revisions. AR, Tab 10b, NOREAS EN Resp. Email Chain at 1. The contract specialist also stated: "A revised price proposal with the updated [pricing workbook] provided with Amendment No. 0005 (see attached) is also required. Please submit your revised price proposal no later than 03 March 2025 at 12:00pm (ChST)." *Id.* In reply to this email, NOREAS timely submitted a revised price proposal using the updated pricing workbook included with RFP amendment 5. AR, Tab 10c, NOREAS EN Resp., Price Proposal Update at 1. While NOREAS updated its price proposal format by completing the revised pricing workbook, it also explained that its actual prices remained unchanged from its original proposal. *Id.*

The protester characterizes the contract specialist's email as "prov[ing] that NOREAS was coached to change its otherwise 'Unacceptable' February 27/28, 2025 response to NAVFAC's EN." Supp. Protest at 10. The Navy maintains it "had a similar exchange with LMS regarding LMS'[s] proposal revisions and the updated [pricing workbook] enclosed with Amendment 5." Supp. COS/MOL at 2. Accordingly, the agency contends, "LMS and NOREAS received equal treatment." *Id.* at 2.

Specifically, the agency explains LMS's revised price proposal included with its EN response also was not provided using the updated pricing workbook included with RFP amendment 5. Supp. COS/MOL at 8. The contract specialist represents that she spoke with one of LMS's designated representatives on the phone and informed LMS of the need to resubmit their revised price proposal using the updated pricing workbook.<sup>11</sup>

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<sup>11</sup> We note that while LMS does not expressly confirm the contract specialist's representation that she spoke on the phone with someone at the firm, the protester also does not expressly deny that such a call occurred; instead the protester objects to the characterization of the conversation as constituting discussions. See Supp. Comments at 16-17 ("If NAVFAC wants to characterize its verbal exchange with LMS . . ."; "the  
(continued...)

AR, Tab 39, Contract Specialist Decl. at 1. Following the phone call, LMS timely resubmitted its revised price proposal using the updated pricing workbook. *Id.* The contemporaneous record shows LMS initially responded to its EN with two emails transmitted at 10:54 a.m. and 10:57 a.m., respectively. AR, Tab 9a, LMS EN Resp. Transmittal Email Chain at 1 (“We are breaking it into 2 emails with our attachments, this is 1 of 2” sent at 10:54 a.m.; “Here’s our 2nd email with the attachments, this is 2 of 2” sent at 10:57 a.m.). Then at 11:40 a.m., LMS resent the second of its two emails, resubmitting its price proposal revisions. *Id.*

The protester attempts to refute the agency’s explanation by claiming that LMS did include the updated pricing workbook with its initial EN response. Supp. Comments at 16. Just two sentences after making this claim, however, the protester describes a *substantive difference* between the pricing workbook included with LMS’s initial 10:57 a.m. transmittal email and the pricing workbook included with LMS’s later 11:40 a.m. transmittal email. *Id.* Specifically, the protester acknowledges that in the later-submitted workbook, “LMS filled in the Unit Prices/Sub-Totals for each ELIN [exhibit line item] as required by the Navy.” *Id.*

Based on our review of the contemporaneous record, the agency’s explanation provided in response to the protest, and the protester’s admission, we conclude the agency did not engage in unequal discussions with the awardee, but instead provided both NOREAS and LMS an opportunity to resubmit their price proposals using the updated pricing workbook included with RFP amendment 5. Accordingly, we deny the protester’s allegations of unequal discussions. See e.g., *Enterprise Servs. LLC*, B-414230.3, B-414230.4, Sept. 17, 2018, 2018 CPD ¶ 323 at 12 n.18, 13 (denying allegation of unequal discussions related to solicitation amendment where both advised both protester and awardee of amendment during discussions and both were permitted to submit proposal revisions after amendment).

#### Evaluation of Awardee’s Proposal and Best-Value Tradeoff

The protester raises a number of challenges to the evaluation of the awardee’s proposal. For example, LMS asserts that NOREAS’s proposal was missing required information, that NOREAS engaged in a “bait and switch” with respect to key personnel, and that the agency unreasonably evaluated the awardee’s proposal under both the experience and past performance factors. See Protest at 38-63; see also Supp. Protest at 17-19 (challenging evaluation of awardee’s proposal). The protester also argues that these, and the numerous other evaluation errors alleged by LMS, rendered the resulting best-value tradeoff unreasonable. Protest *generally* at 72-74.

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(...continued)

Navy has mischaracterized the underlying purpose of the March 3, 2025 exchange it had with LMS . . .” at n.13) (emphasis omitted).

Under the bid protest provisions of the Competition in Contracting Act of 1984 only an “interested party” may protest a federal procurement. 31 U.S.C. § 3551(2). That is, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 31 U.S.C. § 3551(2)(A); 4 C.F.R. § 21.0(a)(1).

Here, even if we were to agree with the protester that the agency erred in its evaluation of NOREAS’s proposal and resulting source selection decision, LMS would not be in line for award due to the above-discussed deficiency assessed in the firm’s proposal. Rather, one of the other two unsuccessful offerors that submitted eligible proposals would be next in line for award. Consequently, the protester is not an interested party to challenge the agency’s evaluation of the awardee’s proposal or best-value tradeoff. *See e.g., Unico Mech. Corp., supra* at 6 (dismissing various challenges, including those to awardee’s evaluation, where protester’s proposal was reasonably assessed a deficiency for failing to address multiple required items within the solicitation’s stated page limits and protester was therefore not an interested party to challenge the award).

The protest is denied in part and dismissed in part.

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