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## Decision

**Matter of:** Watermark Risk Management International, LLC

**File:** B-423878.3; B-423878.4; B-423878.5; B-423878.6

**Date:** March 17, 2026

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### DIGEST

1. Allegation of material misrepresentations by the awardee concerning the employment status of the firm's staff is denied where the solicitation did not require the identification of named employees, nor call for an evaluation of the qualifications of offered staff.
  2. Protest challenging the evaluation of the protester's past performance is denied where the evaluation was reasonable and consistent with the terms of the solicitation.
  3. Protest challenging the agency's evaluation of the protester's technical proposal is denied where, even assuming that there were any errors in the evaluation, the protester cannot establish any reasonable possibility of competitive prejudice.
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### DECISION

Watermark Risk Management International, LLC, a small business of Triangle, Virginia, protests the award of a contract to Artex Group LLC, a small business of Arlington, Virginia, under request for proposals (RFP) No. 15JPSS25R00000055, issued by the Department of Justice (DOJ), for security and emergency management support services. The protester alleges the awardee made material misrepresentations in its offer, and challenges the agency's evaluation of proposals.

We deny the protest.

## BACKGROUND

The agency issued the solicitation on May 20, 2025, as a small business set-aside, pursuant to the procedures of Federal Acquisition Regulation (FAR) part 12 (Acquisition of Commercial Products and Commercial Services) and part 15 (Contracting by Negotiation), seeking security and emergency management support services. Agency Report (AR), Tab A.2, Statement of Work (SOW) at 3.<sup>1</sup> The solicitation contemplated the award of a single indefinite-delivery indefinite-quantity contract with a 1-year base period of performance and four 1-year option periods; resulting orders will be issued on a fixed-price basis. AR, Tab A.3, Amended RFP at 2. The solicitation advised that award would be made on a best-value tradeoff basis, considering three factors: (1) technical; (2) past performance; and (3) price. *Id.* at 17-22. The technical factor included four sub-factors: (a) management; (b) staffing; (c) phase in/phase out plan; and (d) quality control plan. *Id.* at 17. The agency utilized a numerical scoring system in evaluating the technical factor, with each subfactor having a maximum point score.<sup>2</sup> *Id.* For past performance, each offeror would receive a performance confidence relevancy rating, and an assessment evaluation rating.<sup>3</sup> *Id.* at 21. Price would be evaluated for fairness, realism, and reasonableness. *Id.* at 22.

The agency received multiple proposals by the submission due date, to include proposals from Watermark and Artex. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 3. The agency made award to Artex on August 22, 2025. *Id.* On September 2, Watermark filed a protest with our Office, challenging the agency's evaluation of proposals and resulting award decision. In response to a separate agency-level protest filed by another disappointed offeror, the agency decided to take corrective action by reevaluating proposals and revising its best-value determination. Our Office dismissed Watermark's protest as academic on September 26. *Watermark Risk Management International, LLC, B-423878; B-423878.2, Sept. 26, 2025* (unpublished decision).

On or about December 16, the agency again selected Artex for award. AR, Tab H.2, Notice of Unsuccessful Offeror at 1. The final evaluation ratings for the proposals of Artex and Watermark were as follows:

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<sup>1</sup> All citations to the record are to the corresponding Adobe PDF page numbers.

<sup>2</sup> The maximum scores for each subfactor were: management (35); staffing (40); phase in/phase out plan (20); and quality control plan (5). AR, Tab A.3, Amended RFP at 17.

<sup>3</sup> The agency would assign one of four adjectival relevancy ratings: very relevant; relevant; somewhat relevant; or not relevant. AR, Tab A.3, Amended RFP at 21. The agency's performance confidence assessment had the following possible adjectival ratings: substantial confidence; satisfactory confidence; neutral confidence; limited confidence; or no confidence. *Id.*

	Artex	Watermark
Technical	100	87
Management	35	29
Staffing	40	33
Phase In/Out	20	20
Quality Control	5	5
Past Performance	Neutral	Neutral
Price	\$32,089,036	\$32,678,513

*Id.*; AR, Tab I, Technical Evaluation Scoring Matrix at 1. Following a debriefing, this protest followed.

## DISCUSSION

Watermark marshals several protest grounds, to include that Artex misrepresented the availability of its staff--which should have resulted in the firm being eliminated from the competition--and that the DOJ's evaluation of proposals under the technical and past performance factors was unreasonable. For the reasons that follow, we find no basis to sustain the protest.<sup>4</sup>

### Alleged Misrepresentations

As part of its proposal, each offeror was required to furnish "administrative" information, to include an organizational chart, which was to "indicate the Key Personnel positions in the offeror's corporate structure and clearly define the lines of authority, responsibility, and communication." AR, Tab A.3, Amended RFP at 9. This information, while not part of the evaluation criteria to determine the best value to the agency, would be evaluated on a pass/fail basis. *Id.* at 16. While the organizational chart was only to be evaluated

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<sup>4</sup> Watermark raises other collateral allegations, and although our decision does not specifically address every argument presented, we have considered each argument and find that none provides a basis on which to sustain the protest. For example, the protester argues the agency treated offerors disparately, where the DOJ credited Artex's--but not Watermark's--technical proposal for features that both firms offered. See Protest at 17; Supp. Protest at 4-5; Comments at 10; Supp. Comments at 7. However, our review of the record does not support the protester's conclusions because the differences in the agency's evaluation reasonably stem from differences in the proposals, rather than unequal treatment. See *Battelle Memorial Inst.*, B-418047.3, B-418047.4, May 18, 2020, at 5 (citing *Office Design Group v. United States*, 951 F.3d 1366, 1372 (Fed. Cir. 2020)) (explaining that when a protester alleges unequal treatment in a technical evaluation, it must show that the differences in the evaluation did not stem from differences between the quotations, and that the agency unreasonably downgraded or failed to credit its proposal for aspects that were substantively indistinguishable from, or nearly identical to, those contained in other proposals).

as pass/fail, under the management subfactor, the agency would evaluate proposals “to ensure the Offeror’s Organizational Chart reflects its corporate structure and that the lines of authority, responsibility, and communication are clearly defined.” *Id.* at 18. Moreover, as potentially relevant here, the RFP stated that the DOJ “will evaluate the offeror’s Staffing plans to ensure the Key Personnel and non-key positions are identified in its corporate structure and that the lines of authority, responsibility, and communication are clearly defined.” *Id.* The solicitation did not expressly identify what constituted “key personnel”, nor did the RFP otherwise provide that the agency would evaluate the qualifications of any offered staff, to include those individuals identified as “key personnel.”

The protester argues that Artex’s proposal includes material misrepresentations that should have resulted in the firm being eliminated from the competition. Protest at 9-10; Supp. Protest at 6-7; Comments at 2-5; Supp. Comments at 2-4. In this regard, Watermark alleges that as part of its technical proposal, the awardee identified several personnel as part of the firm’s corporate support structure that, according to Watermark, based on publicly available information, do not appear to be currently employed by Artex. Comments at 3; see also AR, Tab C.2, Artex’s Technical Proposal at 8 (identifying five people, by name, as part of Artex’s corporate support structure). In the protester’s view, this constitutes a material misrepresentation that required Artex’s disqualification from the competition. In response, the agency contends that the awardee made no material misrepresentations, the solicitation did not require offerors to identify key personnel, and the DOJ, in its evaluation, did not rely on Artex’s representations regarding its identified staff. COS/MOL at 6-7; Supp. Memorandum of Law (Supp. MOL) at 3-5.

The evaluation of an offeror’s proposal is a matter within the agency’s discretion. *IPlus, Inc.*, B-298020, B-298020.2, June 5, 2006, at 7. In reviewing an agency’s evaluation, our Office will not reevaluate proposals; instead, we will examine the record to ensure that it was reasonable and consistent with the solicitation’s stated evaluation criteria and applicable procurement statutes and regulations. *Metro Mach. Corp.*, B-402567, B-402567.2, June 3, 2010, at 13. As a general matter, in evaluating proposals, an agency may reasonably rely on information provided by an offeror in its proposal as being accurate. *Beckman Coulter, Inc.*, B-405452, Nov. 4, 2011, at 5. However, an offeror’s material misrepresentation in its proposal can provide a basis for disqualification of the proposal and cancellation of a contract award. *ERIMAX, Inc.*, B-410682, Jan. 22, 2015, at 6. A misrepresentation is material where the agency relied upon it and it likely had a significant impact on the evaluation. *Id.*

On this record, we find no basis to sustain the protest. The solicitation did not require the agency to evaluate identified personnel, either in terms of their qualifications or employment/commitment status. Instead, under the technical factor, the DOJ was to evaluate whether an offeror’s organizational chart “reflects its corporate structure and that the lines of authority, responsibility, and communication are clearly defined” and whether “Key Personnel and non-key positions are identified in its corporate structure and that the lines of authority, responsibility, and communication are clearly defined.”

AR, Tab A.3, Amended RFP at 18. That is, the evaluation was focused on the *structure* of the proposed management and staffing plan, not the *individuals* identified for those positions. Indeed, nowhere in the solicitation did the agency commit to an evaluation of specific personnel.

To the extent the protester argues that the DOJ's evaluation of management and staffing did, necessarily, encompass specifically identified personnel, we disagree. See Supp. Comments at 3 ("The 'corporate structure and lines of authority' reflected in the Artex Technical proposal, however, are meaningless if the individuals in this corporate structure or in the lines of authority are fictitious characters."). Again, the evaluation criteria focused on the structure and lines of authority, not the qualifications or current employment status of the personnel in those structures. AR, Tab A.3, Amended RFP at 18. Indeed, whether it is Mrs. X or Mrs. Y who actually performs in those positions is not immediately relevant in terms of how the DOJ was to evaluate technical proposals under the RFP.<sup>5</sup> In the absence of some affirmative, qualitative evaluation criteria requiring the agency to gauge the merit of identified personnel or an explicit requirement to have provided letters of commitment for such personnel, we find no basis to sustain this allegation.<sup>6</sup>

#### Past Performance Evaluation

The protester also challenges the agency's evaluation of its past performance, contending that the DOJ's assignment of a rating of neutral was in error, given Watermark's performance references. Protest at 11-13; Supp. Protest at 7-10; Comments at 5-6; Supp. Comments at 4. An agency's evaluation of past performance, including its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion which we will not disturb unless the agency's assessments are unreasonable or inconsistent with the solicitation criteria. *SIMMEC Training Solutions*, B-406819, Aug. 20, 2012, at 4. A protester's disagreement with such judgment, without more does not provide a basis to sustain a protest. *ManTech SRS Techs., Inc.*, B-408452, B-408452.2, Sept. 24, 2013, at 10. Here, we find no basis to object to the agency's evaluation under the past performance factor.

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<sup>5</sup> To the extent Watermark challenges whether Artex will actually be able to perform the contract in a manner contemplated by its proposal, such an argument is a matter of contract administration which is not for our consideration. 4 C.F.R. § 21.5(a); see *Neopost USA Inc.*, B-404195, B-404195.2, Jan. 19, 2011, at 7 n.5.

<sup>6</sup> In any event, even assuming, for the sake of argument, Artex misrepresented the employment status of its personnel, we still find no basis to conclude such a misrepresentation was material. See *ERIMAX, Inc.*, *supra* at 6 (a misrepresentation is material only where the agency relied upon it and it likely had a significant impact on the evaluation). Indeed, the record demonstrates that the agency gave no additional credit to Artex's proposal based on the identity or qualifications of the identified personnel. See AR, Tab D, Revised Technical Evaluation Report at 7-9.

The solicitation required the submission of three past performance references and past performance questionnaires (PPQs) returned by the customers for those projects. AR, Tab A.3, Amended RFP at 11. Watermark submitted three references, but the agency only received two PPQs by the submission deadline. AR, Tab E, Past Performance Evaluation at 2-3. The agency explains that “[e]ach of the references provided feedback responses and were considered for recency and relevancy to the scope of services requested in the SOW.” *Id.* at 3. The evaluators explained that two of the submissions were for the same contract and related to Watermark’s performance as a subcontractor, and “met 3 out of the 12 Technical Subtasks under Task Areas 2.1 and 2.2 of the SOW as they relate to the Administrative Support Services effort.” *Id.* In sum, the evaluators found one reference to be recent, but not relevant, a second reference to be neither recent or relevant, and the third (for which no PPQ was timely submitted) was not assessed. *Id.* at 2. The DOJ assigned a rating of neutral to Watermark’s past performance. *Id.*; see also Tab A.3, Amended RFP at 21 (explaining that a rating of neutral would be assigned where an offeror’s “performance record is so sparse that no meaningful confidence assessment rating can be reasonably assigned.”).

The protester contends the DOJ’s failure to consider its third reference was improper, and at a minimum, the agency should have assessed the contract for relevancy. Supp. Protest at 9. However, even assuming the agency would have found such a contract both recent and relevant, that no PPQ was available to the agency’s evaluators would not have reasonably allowed for a determination as to the quality of Watermark’s performance on that contract. Indeed, the RFP cautioned that “[i]t is the contractor’s responsibility to ensure PPQs are submitted prior to proposal due date on behalf of the company.” Tab A.3, Amended RFP at 19. To the extent the protester avers that the DOJ could have looked elsewhere for such performance information--such as Contractor Performance Assessment Reporting System (CPARS) information--the agency, per the terms of the RFP, was permitted, but not required, to do so. See Tab A.3, Amended RFP at 19 (“The Government *may* utilize some or all of the following sources of past performance information[,]” to include CPARS information.).

Second, Watermark argues that while the agency has discretion in evaluating past performance, “such discretion is not unfettered.” Comments at 6. The protester argues the evaluation record suggests the agency thought two of its references were at least somewhat relevant, based on the evaluator’s explanation that the submission met 3 out of 12 Technical Subtasks under Task Areas 2.1 and 2.2 of the SOW. However, the solicitation explained that relevancy was a function of how related a reference was to the instant SOW. Tab A.3, Amended RFP at 20. The agency’s conclusion that Watermark’s performance was not relevant because it only met 25 percent of the requirement’s operative task areas is, in our view, not an unreasonable conclusion. The protester’s disagreement with the DOJ’s relevancy findings is not, by itself, a basis to upset the agency’s evaluation conclusions. *ManTech SRS Techs., Inc., supra* at 10.

## Technical Evaluation

The protester also challenges the agency's evaluation of the firm's technical proposal. Protest at 14-17; Supp. Protest at 6; Comments at 6-10; Supp. Comments at 5-7. In this regard, Watermark contends several of the agency's negative findings under the management plan and staffing plan subfactors were unreasonable. We need not address these allegations because, even assuming that the protester were to prevail on some or all of its challenges, the protester cannot demonstrate any reasonable possibility of competitive prejudice.

Competitive prejudice is an essential element of any viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest, even if deficiencies in the procurement are found. *AdvanceMed Corp.*, B-415360 *et al.*, Dec. 19, 2017, at 10; *DynCorp Int'l LLC*, B-411465, B-411465.2, Aug. 4, 2015, at 12-13; *see also Protection Strategies, Inc.*, B-416635, Nov. 1, 2018, at 8 n.3 (finding no competitive prejudice where the presence of several remaining weaknesses would still support the agency's ultimate evaluation determinations).

The solicitation explained that under the technical factor, the maximum score an offeror could receive was 100 points. Tab A.3, Amended RFP at 17. Artex received a perfect score of 100 points under the technical factor, where the agency assigned several strengths, but no weaknesses or significant weaknesses. AR, Tab D, Revised Technical Evaluation Report at 7. As noted above, both firms received a rating of neutral under the past performance factor. See AR, Tab E, Past Performance Evaluation at 1-3. The record also evidences that Artex offered a lower price than Watermark, by approximately \$600,000. AR, Tab G, Revised Best Value Decision at 3.

Here, the protester cannot establish any reasonable possibility of prejudice even if we were to agree with all of the protester's remaining objections to the DOJ's technical evaluation of the protester's proposal. In this regard, Watermark does not challenge one of the weaknesses assigned by the agency under the staffing plan, related to the DOJ's finding that Watermark's "proposal references out-of-date information regarding personnel security submissions and processing[...]" See AR, Tab D, Revised Technical Evaluation Report at 15. Per the agency's scoring methodology, Watermark's technical proposal would thus not be eligible for a maximum score, and accordingly, was inferior to Artex's. See AR, Tab I, Technical Evaluation Scoring Matrix at 1 (demonstrating that even if we were to sustain all of Watermark's technical challenges, the maximum technical score it could receive would be 98 out of 100). Given that both firms received a rating of neutral under the past performance factor, and Artex offered a lower price, Watermark cannot establish a reasonable possibility of competitive prejudice, even if its remaining challenges to the DOJ's evaluation under the technical factor were sustained, as it is not apparent the firm's competitive position would

materially change.<sup>7</sup> In the absence of any possibility of competitive prejudice, we cannot sustain Watermark's protest allegations. *DynCorp Int'l LLC, supra*.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel

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<sup>7</sup> In a supplemental protest, Watermark challenges the agency's technical evaluation methodology, contending the agency failed to credit, in its evaluation scoring matrix, proposals for assigned strengths, and improperly assumes all weaknesses are equal. Third Supp. Protest at 2-3; Supp. Comments at 7-8. We find the protester's argument unpersuasive, as Watermark fails to establish that the agency's approach was unreasonable. First, Watermark provides no citation to statute, regulation, or caselaw (and fails to point to anything in the RFP), to support its contention that an agency's evaluation must credit a firm's proposal if an agency finds positive aspects in an offeror's approach. Second, contrary to the protester's position, the record does not demonstrate the agency "assumes that all weaknesses are created equal." Third Supp. Protest at 2. Indeed, the agency had the discretion to assign weaknesses or significant weaknesses based on the weight of the DOJ's negative finding, and the agency's approach allowed for differing decrements based upon the subfactor. AR, Tab I, Technical Evaluation Scoring Matrix at 1. Third, and dispositive, the best-value tradeoff decision looked beyond the mere point tallies for the technical factor, and examined the underlying merit of the offered technical features. See AR, Tab G, Revised Best Value Decision at 2. On this basis, we cannot conclude the agency's technical evaluation methodology was unreasonable.