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Decision

Matter of: QinetiQ Inc.

File: B-424110.4; B-424110.5

Date: August 24, 2026

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DIGEST

1. Agency reasonably identified multiple weaknesses in protester's proposal, including its failure to propose live target testing and its deferral of integrated system testing until after delivery of the system.
2. Protester's allegations regarding various aspects of awardee's evaluation are dismissed, including allegations that the agency failed to consider offerors' past performance where the solicitation did not include a past performance factor, and allegations regarding awardee's purported misrepresentation in its proposal that fail to present a sufficient factual or legal basis for protest.
3. Agency reasonably evaluated other aspects of awardee's proposal, including the awardee's compliance with the solicitation's limitation regarding the number of slides to be used during oral presentations, and the awardee's compliance with the solicitation requirements regarding exportability of its proposed solution.
4. Agency's erroneous risk assessment regarding protester's export license was not prejudicial to the protester in the tradeoff determination.
5. Protester's complaints based on the agency's alleged failure to comply with internal agency regulations implementing the Arms Export Control Act do not state a basis for protest.

DECISION

QinetiQ, Inc., of Lorton, Virginia, protests the Department of the Army's issuance of a task order to TCOM LP, of Columbia, Maryland, pursuant to request for proposals (RFP) No. AEROSTATS-MATOC-001, for the production and delivery of four airspace and surface radar reconnaissance (ASRR) aerostat systems for the Polish Armed Forces pursuant to the foreign military sales (FMS) program.¹ Agency Report (AR), Tab 5, Performance Work Statement (PWS) at 3.² QinetiQ challenges the agency's assessment of various weaknesses and risks in its proposal; asserts that the agency failed to identify alleged flaws in TCOM's proposal; challenges the agency's tradeoff analysis; and maintains that the agency failed to comply with agency guidance regarding implementation of the Arms Export Control Act.

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

BACKGROUND

On June 11, 2025, pursuant to multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contracts³ and section 16.505 of the Federal Acquisition Regulation (FAR), the agency issued the solicitation seeking proposals to produce and deliver four ASRR aerostat systems "fully integrated with primary radio detection and ranging (RADAR), Electronic Intelligence (ELINT), and Identification Friend or Foe (IFF) payloads, as well as accompanying product support package required to field and maintain system readiness and operational capability."⁴ AR, Tab 5, PWS at 3.

¹ The FMS program is authorized by the Arms Export Control Act, which authorizes the Department of Defense, acting as an agent for a foreign country and using funds that the customer country has deposited in a trust fund account, to enter into contracts for the benefit of the customer country. See 22 U.S.C. § 2751 *et seq.*

² The page numbers referenced in this decision are PDF page numbers for the various pleading and documents submitted.

³ The underlying IDIQ contracts were awarded by the Army Contracting Command, Aberdeen Proving Ground, and are referred to as "PD [Product Director] Aerostats Multiple Award Task Order Contract[s]." Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 2.

⁴ Following submission of the protest, the agency determined that urgent and compelling circumstances required it to override the statutory stay of performance triggered by the protest, further explaining the nature of this procurement, stating:

The United States has a vital national security interest in maintaining the stability of NATO's (North Atlantic Treaty Organization) Eastern Flank, upholding alliance commitments, and protecting the U.S. military personnel deployed in the region. . . . The ongoing Russian aggression

(continued...)

The solicitation provided that issuance of the task order would be based on the offer determined to be “best suited” for the government, and defined that term as the offer that “in the Government’s estimation, provides the greatest overall benefit in response to the requirement.” AR, Tab 3, RFP amend. 1 at 21. In this context, the solicitation provided that the agency would perform a “comparative/trade-off analysis” based on the “the merits of findings and other considerations identified in the Offeror’s proposal, along with the Offeror’s total cost/price.” *Id.* at 22.

The solicitation further provided that the procurement would be conducted in two phases. In phase one, each offeror was required to “submit a whitepaper describing how it would perform the requirements stated in the PWS and P-SPEC [performance specification] documents.” *Id.* at 7. Phase one proposals were rated on an acceptable/unacceptable basis, and an offeror was required to receive an acceptable rating in phase one to be invited to proceed to phase two.⁵ *Id.* at 22.

In phase two, offerors were required to make oral presentations during which they were to address various “key points” that were listed under each of the following four “elements” of contract performance: program management; production and operations; engineering services; and contractor logistics support.⁶ *Id.* at 14-18. The solicitation provided that, during their oral presentations, offerors “shall provide convincing rationale and demonstrate the Contractor’s ability to meet [the solicitation’s] requirements.” *Id.* at 14, 23. With regard to evaluation of the oral presentations, the solicitation provided that the agency would assess whether the offeror’s “methods and approach have adequately and completely considered, defined, and satisfied the requirements” and “the extent to which the proposed approach is workable and the end results achievable.”

against Ukraine continues to pose a direct threat to Poland’s sovereignty, as evidenced by numerous violations of Polish airspace by Russian unmanned aerial vehicles. . . . Consequently, failing to override the stay not only negatively affects the safety and security of the Polish civilian population and diminishes the protection of both Polish and U.S. military personnel stationed in the region, but it also actively undermines overarching U.S. strategic objectives to deter Russian aggression and demonstrate unwavering reliability as an international defense partner.

Determination and Findings, June 3, 2026, at 3.

⁵ The phase one submissions and evaluation thereof are not at issue in this protest.

⁶ In phase two, each offeror was also required to submit a small business participation plan, a subcontracting plan, and a fixed-price proposal. The solicitation provided that the small business participation and subcontracting plans would be evaluated on an acceptable/unacceptable basis and that price proposals would be evaluated for reasonableness. AR, Tab 3, RFP amend. 1 at 25-26. The submission and evaluation of small business participation plans, subcontracting plans, and price proposals are not at issue in this protest.

Id. at 23-25. In performing these assessments, the solicitation provided that the agency would identify strengths, significant strengths, weaknesses, significant weaknesses, and deficiencies,⁷ and assign a single adjectival rating of outstanding, good, acceptable, marginal or unacceptable for each offeror's oral presentation.⁸ *Id.*

Finally, with regard to oral presentations, the solicitation provided that each offeror "shall develop multimedia presentation materials using slideshow software compatible with Microsoft Office Suite 2013 (PowerPoint)," and established a limit of "30 slides" that could be used during the oral presentation. *Id.* at 6, 14. In this context, the solicitation also stated that "Video, live demonstration, or screenshares of mission planning and analysis software is encouraged." *Id.* at 17.

On June 30, phase one proposals were submitted by five offerors, including QinetiQ and TCOM.⁹ QinetiQ's and TCOM's proposals both received a rating of acceptable under phase one and, in July, both offerors made oral presentations under phase two.

On September 19, the agency awarded the task order to TCOM and, on November 24, following receipt of a debriefing, QinetiQ filed a protest with our Office challenging various aspects of the procurement. On January 8, 2026, following the agency's submission of its response to QinetiQ's November 24 protest, QinetiQ filed a supplemental protest. On January 21, the agency stated that it would take corrective action by reevaluating offerors' proposals under phase two and making a new award determination; thereafter, we dismissed those protests as academic. *QinetiQ, Inc.*, B-424110, B-424110.2, Jan. 23, 2026 (unpublished decision).

On February 2, QinetiQ filed another protest challenging the scope of the agency's pending corrective action. On February 19, based on the agency's statement that it had not made a final determination regarding the potential scope of its corrective action, we dismissed the February 2 protest as premature. *QinetiQ, Inc.*, B-424110.3, Feb. 19, 2026 (unpublished decision). Thereafter, the agency completed its reevaluation of QinetiQ's and TCOM's proposals with the following results:

⁷ Of relevance here, the solicitation defined a weakness as "a flaw in the proposal that increases the risk of unsuccessful contract performance," and defined a strength as "[a]n aspect of an Offeror's proposal that has merit or exceeds specified performance or capability requirements in a way that will be advantageous to the Government during contract performance." *Id.* at 23-24.

⁸ Of relevance here, the solicitation defined a rating of acceptable as "[p]roposal meets requirements and indicates an adequate approach and understanding of the requirements, and risk of unsuccessful performance is no worse than moderate," and defined a rating of good as "[p]roposal indicates a thorough approach and understanding of the requirements and contains at least one strength or significant strength, and risk of unsuccessful performance is low to moderate." *Id.* at 24.

⁹ The other offerors' proposals are not relevant to this protest and are not further discussed.

	Technical/ Oral Presentation	Small Business Participation	Subcontracting Plan	Price
QinetiQ	Acceptable	Acceptable	Acceptable	\$696,874,835
TCOM	Good	Acceptable	Acceptable	\$624,925,209

AR, Tab 12, Task Order Decision Document (TODD) at 72.

In evaluating TCOM's proposal, the agency identified five strengths and no weaknesses. *Id.* at 71. In evaluating QinetiQ's proposal, the agency identified two strengths and eight weaknesses. *Id.* at 37.

For example, the agency identified a weakness in QinetiQ's proposal with regard to key point 2-1 ("Production IMS [integrated master schedule]"), stating:

[QinetiQ] does not intend to complete testing against live targets until after a system arrives in Poland. . . . This does not align with the PWS requirements . . . and is non-compliant with the P-SPEC.^[10]

Id. at 14-15.

Similarly, the agency identified a weakness in QinetiQ's proposal with regard to key point 3-1 ("Engineering Services Implementation"), stating:

QinetiQ proposed . . . [redacted] for the evaluation instead of the required verification method of test[ing]. . . . QinetiQ proposed to not operationally test against live, validated targets in real-world conditions.

Id. at 17.

With regard to key point 3-4 ("Cybersecurity Performance"), the agency identified another weakness in QinetiQ's proposal stating:

Offeror does not have prior experience and did not outline the process for connecting to NATO network explicitly. . . .^[11] [T]he offeror presented a technical solution while simultaneously revealing that it lacked the foundational experience and a clear, actionable plan to meet the project's most critical requirements: NATO security and operational requirements.

¹⁰ Table 3 of the P-SPEC identified the "verification method" (analysis, inspection, demonstration, or test) for each of over 30 system components--listing "test" as the required verification method for more than 20 of the components. AR, Tab 6, P-SPEC at 18-19.

¹¹ The solicitation stated: "The Offeror shall list prior experience and outline the process in connecting to NATO Secret/Restricted networks." AR, Tab 3, RFP amend. 1 at 17.

Id. at 25-26.

With regard to key point 3-5 (“Testing for Critical Production Milestones”), the agency identified yet another weakness in QinetiQ’s proposal stating:

QinetiQ’s approach relies on the use of a [redacted]. . . . The offeror has described a vague outline but has failed to provide the critical details and evidence needed to build confidence that it can successfully test and deliver a compliant system. . . . QinetiQ proposed a [redacted] . . . but failed to define a [redacted]. . . . This discrepancy is an integration risk and a massive oversight. In short, the offeror has presented a testing strategy that is disconnected from the project’s requirements, lacks critical detail, is incomplete in scope, and is built on a fragile schedule.

Id. at 27-29.

Finally, separate and apart from the evaluated weaknesses discussed above, the agency identified a “significant performance and schedule risk” in QinetiQ’s proposal, stating: “[the] proposed RADAR manufactured by C-Speed [a QinetiQ subcontractor] may not be exportable without additional authorization,” elaborating that the agency had “uncertainty” regarding “C-Speed’s export license.” *Id.* at 12-13.

On May 11, based on its reevaluation, the agency concluded that TCOM’s highest technically rated, lowest-priced proposal offered the best overall value, stating:

As the highest rated technical proposal, [TCOM] has an advantage over QinetiQ. QinetiQ submitted a total price of \$696,874,835.90. [TCOM] submitted a proposed price of \$624,925,209.00, which is \$71,949,626.90 less than the proposed price submitted by QinetiQ. . . . Therefore, the Government has concluded that [TCOM’s] proposal provides the best value to the Government (highest technical rating, lowest price) for this requirement.

Id. at 72-73.

Thereafter, the agency notified QinetiQ that it had again selected TCOM for award. On May 26, following a debriefing, QinetiQ filed this protest.¹²

DISCUSSION

¹² Because the value of the issued task order is over \$35 million, this procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts awarded under the authority of title 10 of the United States Code. 10 U.S.C. § 3406(f)(1)(B).

QinetiQ's protest challenges the agency's evaluation of risks and weaknesses in its own proposal; complains that the agency failed to identify various alleged flaws in TCOM's proposal; asserts that the agency's tradeoff determination was flawed; and maintains that its protest should be sustained based on the agency's alleged failure to comply with the internal agency guidance implementing the Arms Export Control Act. As discussed below, we find no basis to sustain any portion of QinetiQ's protest.

Evaluation of Weaknesses in QinetiQ's Proposal

First, QinetiQ challenges some of the weaknesses the agency identified in its evaluation of QinetiQ's proposal.¹³ As discussed above, a significant portion of the agency's criticism of QinetiQ's proposal reflected concern over QinetiQ's proposed approach to testing and verification of its aerostat systems. QinetiQ asserts that the agency's concerns were improper because they were based on "unstated evaluation criteria" or "ignored" information in QinetiQ's proposal. Protest at 16. Specifically, QinetiQ argues that the solicitation "[did not] mention live target testing during the CONUS [Contiguous United States] phase." Protest at 19. QinetiQ acknowledges that the solicitation requires multiple "verification tests," but asserts that "never does the [solicitation] state that any of these tests require live target testing." *Id.* at 19-20. Similarly, QinetiQ complains that "[n]owhere does the RFP require 'formalized test documentation.'" Protester's Comments at 9. Accordingly, QinetiQ asserts that agency's evaluation was "based on the faulty and unstated premise that live testing was required." Protest at 21.

The agency responds by first pointing out that PWS sections 1.4.5.1 and 1.4.5.2 are titled "CONUS Test Phase," and "OCONUS Test Phase, respectively."¹⁴ Under section 1.4.5.1, CONUS Test Phase, the PWS states:

The Contractor shall conduct a FAT [first article test] at a location as agreed upon by the U.S. Government. The Contractor shall perform one (1) Functional System Test prior to the Acceptance Testing of the other systems. For each of the four (4) completed and fully integrated Aerostat systems, the Contractor shall perform a CONUS Production Acceptance Test. . . . Furthermore, the Contractor shall perform a FAT on the first

¹³ We note that, of the eight weaknesses the agency identified, QinetiQ's protest does not challenge the agency's assessment of a weakness regarding key point 3-4 ("Cybersecurity Performance"), and QinetiQ withdrew its initial challenge to the assessment of a weakness under key point 3-3 ("Flowchart of Collection and Info Dissemination"). See AR, Tab 12, TODD at 22, 25; Protester's Comments at 2 n.2.

¹⁴ As noted above, "CONUS" refers to the "Contiguous United States"; "OCONUS" refers to "Outside [the] Contiguous United States." See AR, Tab 5, PWS at 4.

production system for each unique configuration. . . . The U.S. Government may choose to witness testing events.^[15]

AR, Tab 5, PWS at 9.

The agency notes that section 9.302 of the FAR provides that: “First article testing and approval . . . ensures that the contractor can furnish a product that conforms to all contract requirements for acceptance.” Contracting Officer’s Statement and Memorandum of Law (COS/MOL) at 17. The agency further notes that QinetiQ’s proposal contemplated [redacted] and proposed to “conduct[] live testing only *after* system delivery.” *Id.* at 19. Accordingly, the agency maintains that QinetiQ’s proposal failed to comply with the CONUS testing requirements established by PWS section 1.4.5.1. *Id.* at 23.

More specifically, the agency maintains that the requirement for live testing of a fully integrated system prior to exporting the system to Poland is logically encompassed throughout the PWS requirements, adding that “[a]ttempting to resolve baseline integration failures on sovereign foreign soil . . . threatens severe schedule delays and performance risk in the form of degraded capability.” AR, Tab 20, Declaration of Contracts Lead for FMS at 2-4. The agency further notes that QinetiQ’s proposed approach reflected heavy reliance on its [redacted], noting that verification [redacted], and stating that “[redacted] cannot replicate the complex electromagnetic and environmental variables of an operational theater.” COS/MOL at 16. In short, the agency maintains that the solicitation clearly required the contractor to “verify functionality as a complete system prior to deployment” and that “[b]y deferring live operational tests until OCONUS delivery, QinetiQ attempts to pass the risk of system failure” to the customer. *Id.* at 23.

Finally, the agency notes that the solicitation specifically put offerors on notice that their proposed approach would be evaluated to determine whether their “methods and approach have adequately and completely considered, defined, and satisfied the requirements specified in the request for proposals”; “the extent to which each requirement has been addressed”; “the extent to which the proposed approach is workable and the end results achievable”; “the extent to which successful performance is contingent upon proven devices and techniques”; and “the extent to which the Offeror is expected to be able to successfully complete the proposed tasks and technical requirements.” See AR, Tab 3, RFP amend. 1 at 23. Accordingly, the agency maintains that it reasonably, and consistent with the solicitation’s stated evaluation criteria, identified multiple weaknesses in QinetiQ’s proposed approach, including its

¹⁵ In contrast, PWS section 1.4.5.2, “OCONUS Test Phase,” stated: “The OCONUS (Poland) Site Acceptance Test phase will be operationally focused on testing and validating that a fully installed and integrated system in Poland provides sensor range coverage, data analysis support, sensor track and target data in correct formats, in an accurate and timely manner” *Id.* at 9.

heavy reliance on simulation rather than live testing, and its deferral of live testing until after the aerostat systems had been delivered in Poland.

The evaluation of proposals in a task order competition is primarily a matter within the contracting agency's discretion, because the agency is responsible for defining its needs and the best method of accommodating them. *URS Fed. Servs., Inc.*, B-413333, Oct. 11, 2016, at 6. While our Office will review evaluation challenges to ensure that the evaluation was reasonable and conducted in accordance with the solicitation and applicable procurement laws and regulations, a protester's disagreement with the agency's judgment, without more, is insufficient to establish that an agency acted unreasonably. See *id.* Further, an agency's evaluation of proposals in a task order competition may properly consider specific, albeit not expressly identified, matters that are logically encompassed within the stated evaluation criteria. *M.A. Mortenson Co.*, B-413714, Dec. 9, 2016, at 4-5.

Here, we reject all of QinetiQ's complaints regarding the agency's assessment of weaknesses in its proposal for the reasons argued by the agency. Specifically, based on the solicitation's provisions regarding CONUS testing, the agency reasonably identified various risks associated with QinetiQ's proposed approach, which incorporated heavy reliance on [redacted] and simulation rather than live testing. These risks reflected evaluation factors that were clearly encompassed within the solicitation's stated requirements, and QinetiQ's various assertions that these assessments constituted application of unstated evaluation criteria are without merit.

Further, based on our review of the entire record, we reject QinetiQ's assertion that the agency "ignored" aspects of QinetiQ's proposal. For example, the agency assigned a weakness under key point 3-5 ("Testing for Critical Production Milestones"), which required that offerors "must show requirements traceability from the P-[SPEC], and all associated requirements documents into Offeror's testing plan, procedures, and any other associated documentation," and that the offeror "shall provide examples." AR, Tab 3, RFP amend. 1 at 17. The agency concluded that QinetiQ's proposal of a "case example" was "less than adequate" and "did not fully address the requirement." COS/MOL at 28; AR, Tab 12, TODD at 27. Based on our review of QinetiQ's proposal, we find no basis to question the agency's evaluation in this regard.

In short, we find no merit in any of QinetiQ's various complaints regarding assessed weaknesses in its proposal and, accordingly, its protest allegations in that regard are denied.

Evaluation of TCOM's Proposal

Next, QinetiQ challenges various aspects of the agency's evaluation of TCOM's proposal, including the agency's alleged failure to consider past performance information; TCOM's alleged "misrepresentation" regarding long-lead items; TCOM's alleged failure to comply with the solicitation's slide limitation; and the agency's alleged

failure to evaluate the exportability of TCOM's proposed solution. As discussed below, none of QinetiQ's allegations provides a basis for sustaining its protest.

TCOM's Alleged Negative Performance Under Prior Contracts

First, QinetiQ identifies two contracts that were previously awarded to TCOM,¹⁶ and asserts that the agency was required to consider TCOM's allegedly negative performance under these contracts in its evaluation of TCOM's proposal.¹⁷ Protest at 61-67. More specifically, while acknowledging that "past performance was not an evaluation factor," *id* at 62 n.18, QinetiQ asserts that the agency was obligated to include an assessment of TCOM's prior performance based on a provision of the solicitation that stated: "The awardee will be selected based on a comparative analysis between each Offeror using historical data, the Offerors' proposals, and any other available data." See AR, Tab 3, RFP amend. 1 at 22. Based on this provision, QinetiQ asserts that the agency's "failure" to consider TCOM's past performance of prior contracts was improper. Protest at 64.

The agency responds that QinetiQ is attempting to "create a past performance evaluation criteria where one clearly [did] not exist." COS/MOL at 51. Further, the agency maintains that the solicitation provision on which QinetiQ relies "reserve[ed] the right [for the agency] to consider any relevant information"--noting that if the reference to "historical data" were to be construed as a mandate, it would also require the agency to consider "any other available data" without limitation. *Id.* at 52. Finally, the agency notes that, even if the solicitation were to be construed as mandating consideration of "historical data," it does not require consideration of past performance on other contracts. *Id.* Accordingly, the agency maintains that it was proper for its evaluation of TCOM's proposal not to consider TCOM's past performance of prior contracts. We agree.

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. *Tele-Consultants, Inc.*, B-408465 *et al.*, Sept. 27, 2013, at 11. An ambiguity exists if a provision is susceptible to more than one interpretation. *Poly-Pacific Techs., Inc.*, B-293925.3, May 16, 2005, at 3. A patent ambiguity exists where the solicitation contains an obvious, gross, or glaring error, such as where solicitation provisions appear inconsistent on their face. *NCS Techs., Inc.*, B-406306.3, Sept. 17, 2012, at 4. In such situations, an offeror may not simply make unilateral

¹⁶ The protest refers to "Contract No. W56KGY-18-R-0019 for Persistent Surveillance Systems – Tethered ('PSS-T')" and "Contract No. W56KGY-21-C-0021 . . . in connection with an FMS to KSA [Kingdom of Saudi Arabia] for PSS-T systems." Protest at 64-65.

¹⁷ TCOM has filed a comprehensive response maintaining that QinetiQ's allegations of negative past performance under both contracts are "demonstrably false." See Intervenor's Comments at 21-24.

assumptions regarding the meaning of patently ambiguous terms in the solicitation and then expect relief when the agency does not act in the manner assumed. Rather, the offeror must challenge the alleged ambiguity prior to the time set for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1); see *Environmental Sys. Research Inst., Inc.*, B-408847.2, Jan. 17, 2014, at 5. Where a patent ambiguity is not challenged prior to submission of quotations, we will dismiss as untimely any subsequent protest assertion that is based on one of the alternative interpretations. *U.S. Facilities, Inc.*, B-293029, B-293029.2, Jan. 16, 2004, at 10.

Here, we reject QinetiQ's assertion that the solicitation's reference to "historical data" mandated the agency's assessment of TCOM's past performance. As the agency notes, QinetiQ's interpretation of this provision would similarly require the agency to consider "any other available data" without any limitation. At most, this solicitation provision was patently ambiguous with regard to the scope of information the agency stated it would consider, and QinetiQ's post-award assertion that the solicitation's reference to "historic data" required consideration of specific past performance information constitutes an untimely challenge to the terms of the solicitation. Accordingly, QinetiQ's assertion in this regard is dismissed.

TCOM's Alleged Misrepresentation

Next, following the agency's determination to override the stay of performance, QinetiQ filed a supplemental protest asserting that a portion of the agency's stated justification for that action conflicted with a representation TCOM made in its proposal. Supp. Protest at 2-9. Specifically, QinetiQ refers to a portion of TCOM's slide presentation, which stated that "[s]ome critical components are already on order" and listed three specific components.¹⁸ *Id.* at 3; see AR, Tab 9, TCOM Technical Proposal at 13.

Next, QinetiQ refers to a portion of the agency's override determination that stated: "The payload sensors required for the ASRR systems have a long-lead manufacturing timeframe, and subcontractor quotes for these critical components will expire if a new 100-day stop-work order is enacted." Determination and Findings, June 3, 2026, at 4.

Because the components that TCOM represented were "on order" are "payload sensors," QinetiQ asserts that the agency's expression of concern regarding their availability "demonstrates that TCOM's assertions [that it had already ordered long-lead components] were false," and asserts that TCOM "has not yet placed orders for those items." Supp. Protest at 3-4. Based on this "logic," QinetiQ maintains that TCOM's proposal contained a "material misrepresentation . . . [which] demands no less than . . . exclusion [from the procurement]." *Id.* at 8.

The agency responds that QinetiQ's assertions are "disingenuous, at best," since TCOM's proposal indicated that "some"--but not *all*--of the required long-lead items had

¹⁸ There does not appear to be any dispute that the components listed are "payload sensors" and considered to be "long-lead" items.

been ordered. Agency Resp. to Protester Comments at 43. Accordingly, the agency maintains that there is no inconsistency between TCOM's representation and the agency's subsequent statement of concern regarding long-lead items that had not yet been ordered. *Id.*

Our Bid Protest Regulations require that protests include a detailed statement of the legal and factual grounds of protest and that the grounds be legally sufficient. 4 C.F.R. §§ 21.1(c)(4) and (f). This requirement contemplates that protesters will provide, at a minimum, credible allegations that are supported by evidence and are sufficient, if uncontradicted, to establish the likelihood of the protester's claim of improper action. *Warfighter Focused Logistics, Inc.*, B-423546, B-423546.2, Aug. 5, 2025, at 4.

Here, QinetiQ's allegation of TCOM's "misrepresentation" fails to meet the minimum standard for our consideration. More specifically, TCOM's statement in its proposal regarding its placement of orders for *some* system components does not conflict in any way with the agency's subsequent statement of concern regarding the impact that suspension of contract performance would have on not-yet-ordered items. On its face, this allegation fails to state a sufficient basis for protest and is dismissed.

Solicitation Limitation on PowerPoint Slides

Next, QinetiQ complains that, during its oral presentation, TCOM exceeded the solicitation's slide limitation by including "embedded documents" within its slides, thereby gaining an "unfair competitive advantage." Protest at 81. Based on this allegation, QinetiQ maintains that TCOM violated the solicitation's provision that established a "30-slide" limitation, rendering the agency's evaluation of TCOM's proposal unreasonable. *Id.*; see AR, Tab 3, RFP amend. 1 at 6.

The agency responds by first noting that the solicitation: provided that, in making their oral presentations, offerors "shall develop multimedia presentation materials using slideshow software compatible with Microsoft Office Suite 2013 (PowerPoint)"; further stated that "[a]ll slides shall be in Microsoft PowerPoint standard format"; and finally noted that "[v]ideo, live demonstration, or screenshares of mission planning and analysis software is encouraged." AR, Tab 3, RFP amend. 1 at 14, 17. Next, the agency notes that, while TCOM embedded "demonstratives and artifacts" in its PowerPoint slides, QinetiQ similarly embedded videos in its slides. COS/MOL at 63-65. The agency maintains that both offerors used the Microsoft PowerPoint standard presentation tool as contemplated by the solicitation, which permitted the approach employed by both offerors. More specifically, the agency maintains that "Microsoft does NOT count embedded Artifacts as additional slides." Agency Resp. to Protester Comments at 32. Accordingly, the agency maintains that both offerors complied with the terms of the solicitation and that QinetiQ simply misconstrued the scope of the solicitation's 30-slide limitation. COS/MOL at 69-70.

As noted above, the evaluation of proposals in a task order competition is primarily a matter within the contracting agency's discretion; while our Office will review evaluation

challenges to ensure that the evaluation was reasonable and conducted in accordance with the solicitation and applicable procurement laws and regulations, a protester's disagreement with the agency's judgment, without more, is insufficient to establish that an agency acted unreasonably. *URS Fed. Servs., Inc., supra*. As also noted above, 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. *Tele-Consultants, Inc., supra*. Further, where a patent ambiguity exists in the solicitation, it must be challenged prior to the time set for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1); see *Environmental Sys. Research Inst., Inc., supra*.

Here, we reject QinetiQ's assertions that TCOM's proposal violated the terms of the solicitation regarding the use of slides during its oral presentation. As noted above, the solicitation provided that, in making their oral presentations, offerors "shall develop multimedia presentation materials using slideshow software compatible with Microsoft Office Suite 2013 (PowerPoint)" and further provided that "[a]ll slides shall be in Microsoft PowerPoint standard format." AR, Tab 3, RFP amend. 1 at 14. The solicitation further provided that "[v]ideo, live demonstration, or screenshares of mission planning and analysis software is encouraged." *Id.* at 17. Finally, the agency has unambiguously represented that Microsoft's standard PowerPoint tool--identified by the solicitation as the required standard for creating slides--permitted the approach employed by both QinetiQ and TCOM. QinetiQ has not offered any meaningful rebuttal of the agency's representation in that regard. Accordingly, QinetiQ's assertions regarding the agency's judgment and the permissibility of TCOM's approach to its oral presentation are denied.¹⁹

Exportability of TCOM's Proposed Solution

Next, QinetiQ asserts that the agency should have assessed "a deficiency or a significant weakness" in TCOM's proposal for allegedly failing to comply with the

¹⁹ QinetiQ notes that the terms of the solicitation also provided formatting instructions, including the limitation of font size for text, tables, charts and graphs, and required that slides have an "aspect ratio of 4:3," asserting that these "additional limitations" were "at odds" with the agency's interpretation of the solicitation requirements. Protester's Comments at 50-54. However, QinetiQ's assertion that the limitations on font size and aspect ratio permitted offerors to embed certain types of information (videos), but precluded others (live demonstration and screenshares)--when the solicitation "encouraged" all three--reflects a patent solicitation ambiguity; nonetheless, QinetiQ did not raise this issue prior to submitting its proposal. Accordingly, to the extent QinetiQ's protest is based on the alleged inconsistency between the solicitation limitations on font size and aspect ratio as precluding TCOM's approach, but permitting QinetiQ's, its protest constitutes an untimely challenge to the terms of the solicitation and is dismissed.

solicitation requirement that offerors propose an exportable solution.²⁰ Protest at 67-73; see AR, Tab 5, PWS at 3.²¹

The agency responds that, consistent with the PWS requirement that proposed solutions be exportable, the agency asked both offerors during their oral presentations whether “all aspects of the proposed system” were “exportable as of today,” and both offerors responded in the affirmative. COS/MOL at 53-55. The agency further maintains that it had no basis to question TCOM’s affirmation in this regard. *Id.*

As noted above, the evaluation of proposals in a task order competition is primarily a matter within the contracting agency’s discretion and, while our Office will review evaluation challenges to ensure that the competition was conducted in accordance with the solicitation and applicable procurement laws and regulations, a protester’s disagreement with the agency’s judgment, without more, is insufficient to establish that an agency acted unreasonably. *URS Fed. Servs., Inc., supra.*

Based on our review of the record here, we reject QinetiQ’s assertion that the agency should have assessed a deficiency or significant weakness in TCOM’s proposal based on the exportability of its proposed solution. That is, the record establishes that the agency’s evaluation of TCOM’s proposal considered this solicitation requirement, required that TCOM address it, and documented TCOM’s affirmative representation in that regard. AR, Tab 9e, TCOM’s Technical Oral Presentation Recording at 13:00-14:31. Further, in our view, the record does not establish a reasonable basis for the agency to have questioned TCOM’s representation. See, e.g., *FEDSYNC BEI, LLC*, B-417492, B-417492.2, July 23, 2019, at 7-8; *Able Bus. Techs., Inc.*, B-299383, Apr. 19, 2007, at 5; *NCR Gov’t Sys. LLC*, B-297959, B-297959.2, May 12, 2006, at 8-9. Accordingly, QinetiQ’s protest in this regard is denied.

In summary, we deny or dismiss all of QinetiQ’s complaints regarding alleged flaws in the agency’s evaluation of TCOM’s proposal.

Agency’s Tradeoff Determination

²⁰ Among other things, QinetiQ complains that TCOM’s proposed solution has not undergone a “review by the Tri-Service Committee.” Protest at 68-69. QinetiQ’s specific complaints in this regard are based on the provisions of the Defense Security Cooperation Agency’s (DSCA) Security Assistance Management Manual (SAMM). As discussed below, the SAMM is internal agency guidance, and an agency’s alleged failure to adhere to specific provisions of such guidance does not constitute a basis for protest. Accordingly, QinetiQ’s specific complaints regarding “review by the Tri-Service Committee” are dismissed.

²¹ Section 1.3 of the PWS states: “All hardware software and support services shall be exportable in accordance with (IAW) the International Traffic in Arms Regulations (ITAR) and the Arms Export Control Act (AECA).”

Next, QinetiQ argues that the agency's tradeoff determination was flawed in that it incorporated the agency's consideration of an erroneous risk assessment. As noted above, in addition to the multiple evaluated weaknesses, the agency's evaluation of QinetiQ's proposal included a risk assessment regarding the exportability of QinetiQ's solution due to the agency's "uncertainty" regarding an "export license." AR, Tab 12, TODD at 12-13. QinetiQ asserts that the risk assessment was flawed in that "contractors performing a government contract as part of the FMS program are not required to obtain a specific export license[] authorizing the transfer of the purchased material to the foreign customer." Protest at 54.

The agency responds by acknowledging that "it erred in its risk assessment regarding the need for an export license." COS/MOL at 46. Nonetheless, the agency maintains that its erroneous risk assessment was "harmless" as it had "no practical effect on QinetiQ's rating or the award." *Id.* at 47. That is, the agency notes that it did not assign a weakness to QinetiQ's proposal based on this issue and, accordingly, based on the multiple evaluated weaknesses discussed above, maintains that there is no reasonable basis to conclude that, absent the risk assessment, QinetiQ's oral presentation rating of acceptable would have been elevated to make it technically superior to TCOM's. *Id.* at 48. In short, the agency maintains that its evaluation error did not have a meaningful impact on the source selection decision and that, in the context of the evaluation record as a whole, QinetiQ cannot establish any prejudice flowing from this error. We agree.

Competitive prejudice is an essential element of every viable protest. *Armorworks Enters., LLC*, B-400394.3, Mar. 31, 2009, at 3. Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions; that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. *CSI Aviation, Inc.*, B-415631 *et al.*, Feb. 7, 2018, at 7. Because QinetiQ was both lower technically rated and higher-priced than TCOM, in order to establish a meaningful possibility of competitive prejudice, QinetiQ must demonstrate that elimination of the erroneous risk assessment would present a reasonable possibility that its proposal would have been evaluated as technically superior to TCOM's quotation. See *Tuknik Gov't Servs. LLC*, B-422862.2, Dec. 30, 2024, at 6; *Equinoxys, Inc.*, B-419237, B-419237.2, Jan. 6, 2021, at 6.

Based on our review of the evaluation record, we reject QinetiQ's assertion that it was prejudiced by the agency's erroneous risk assessment. As discussed above, the agency reasonably assessed eight weaknesses in QinetiQ's proposed technical approach and only two strengths.²² In contrast, as discussed above, the agency

²² As noted above, QinetiQ's protest does not even challenge two of these assessed weaknesses, including the agency's determination that QinetiQ "lacked the foundational experience and a clear, actionable plan to meet the project's most critical requirements: NATO security and operational requirements." AR, Tab 12, TODD at 26. Further, after initially asserting that the agency should have identified additional strengths in its proposal, QinetiQ withdrew those allegations. Protester's Comments at 2.

reasonably determined that there were no weaknesses and five strengths in TCOM's technically superior proposal. Further, QinetiQ's evaluated price was more than \$71 million (over 10 percent) higher than TCOM's evaluated price.²³ On this record, QinetiQ has not demonstrated a meaningful possibility that elimination of the erroneous risk assessment would result in its proposal being rated as technically superior to TCOM's and, thus, it is unable to establish a reasonable possibility that its proposal would have been selected for award. In short, QinetiQ has not established a reasonable possibility that it was competitively prejudiced by the agency's error; accordingly, this matter does not provide a basis for sustaining its protest.

Compliance with Internal Agency Guidance Implementing the Arms Export Control Act

Finally, QinetiQ asserts that GAO's bid protest review should extend to consideration of whether, in issuing the task order to TCOM, the agency was required to obtain an "offshore procurement ('OSP') waiver." Protest at 78. QinetiQ's assertion in this regard is based on the provisions contained in chapter nine of the DCSA's SAMM. *Id.* at 76-81. QinetiQ does not dispute that the SAMM constitutes "guidance" to agencies regarding implementation of the Arms Export Control Act. *Id.* at 53. More specifically, QinetiQ notes that chapter nine of the SAMM establishes the waiver requirements for certain procurements²⁴ in which the government must make a determination regarding the impact the procurement will have on the United States economy or the industrial mobilization base. Protest at 77; see 22 U.S.C. § 2791(c).

Under the Competition in Contracting Act of 1984, our Office is authorized to resolve bid protests "concerning an alleged violation of a procurement statute or regulation." 31 U.S.C. §§ 3552(a), 3553(a). In this context, we have consistently concluded that protests asserting a violation of internal agency policy or guidance do not establish valid bases for protest. See, e.g., *KeyLogic Assocs., Inc.; KSD Techs., LLC*, B-421346 *et al.*, Mar. 8, 2023, at 9-10; *Triad Logistics Servs. Corp.*, B-403726, Nov. 24, 2010, at 2-3. In determining whether a provision constitutes internal agency policy or guidance or a regulation with the force and effect of law, we have stated that the controlling question is whether the provision creates any rights in offerors or is merely for the protection of the government. *Bank St. Coll. of Educ.--Recon.*, B-213209.2, Oct. 23, 1984, at 3. If the latter, an offeror cannot be heard to complain that the internal policy or guidance was not followed. *Id.*

Our Office has repeatedly held that alleged violations of the SAMM (also referred to as DSCA Manual 5105.38-M) do not establish valid bases for protest. *Group Techs. Corp.; Electrospace Sys., Inc.*, B-250699 *et al.*, Feb. 17, 1993, at 10; *Kahn Indus., Inc.*, B-225491, B-225533, Mar. 26, 1987, at 5.; *Julie Research Labs, Inc.*, B-210435.2,

²³ As noted above, QinetiQ has not challenged the agency's price evaluation.

²⁴ The agency maintains that the facts presented by this procurement do not trigger those requirements. COS/MOL at 58-63.

Feb. 14, 1985, at 4.²⁵ Consistent with our prior decisions, we conclude that QinetiQ's complaints regarding the alleged requirements for a waiver do not create any rights for offerors; rather, the SAMM provisions on which QinetiQ relies reflect actions that are to be taken for the protection of the government.²⁶ Accordingly, QinetiQ's protest allegations in this regard are dismissed.

The protest is denied in part and dismissed in part.

Edda Emmanuelli Perez
General Counsel

²⁵ In one decision, we considered the language contained in an OSP waiver to express an opinion regarding the scope of that waiver--but expressly stated that we were not addressing "whether the waiver should have been granted." *Southern Commercial Indus., Inc.*, B-229969, Apr. 25, 1988, at 4 n.1.

²⁶ To the extent QinetiQ asserts that its protest is based on the requirements of the Arms Export Control Act itself, rather than the SAMM, we reject that assertion. Throughout its protest, QinetiQ repeatedly relies on the provisions of the SAMM to support its various allegations. See Protest at 53-55, 68, 77-79. Specifically, with regard to its allegation that, to be exportable, an "offshore procurement waiver" was required, QinetiQ asserts that TCOM's solution "do[es] not meet the SAMM requirements." *Id.* at 79. Further, while we have previously discussed matters related to the Arms Export Control Act, see *PEMCO World Air Servs.*, B-284240.3 *et al.*, Mar. 27, 2000, at 16-17; *Sabreliner Corp.*, B-284240.2, B-284240.6, Mar. 22, 2000, at 9-10, those decisions address matters of timing and are not directly applicable here.