U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548
Comptroller General
of the United States

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

Decision

Matter of: Michael Baker-International Stantec JV

File: B-424641; B-424641.2

Date: October 16, 2026

Charlie C. H. Lee, Esq., David J. Todd. Esq., and Rachel E. Bauer, Esq., Moore & Lee, P.C., for the protester.
Thomas J. Tracy, Department of the Army, for the agency.
Samantha S. Lee, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's evaluation of qualification statements submitted in a procurement for architect-engineering services is sustained where the experience criterion was not evaluated consistent with the terms of the synopsis.

DECISION

Michael Baker-International Stantec JV (MBIS)[1], of Moon Township, Pennsylvania, protests its elimination from consideration under synopsis No. W9128F25RA029, issued by the Department of the Army, U.S. Army Corps of Engineers (Corps) for architect-engineer (A/E) services for projects within the Corps's Northwestern Division. MBIS contends that the Corps misevaluated the firm's qualification statement.

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

BACKGROUND

This procurement of A/E services was conducted pursuant to the procedures set forth in the Selection of Architects and Engineers Statute, also referred to as the Brooks Act, 40 U.S.C. §§ 1101-1104, as implemented in Federal Acquisition Regulation (FAR)

[1] MBIS is a joint venture of Michael Baker International, Inc. and Stantec Consulting Services Inc. Agency Report (AR), Tab 8, MBIS SF330 at 56. Citations to the record refer to the documents' internal Adobe PDF pagination.

subpart 36.6.[2] AR, Tab 10, Synopsis at 1.[3] In accordance with these regulations, on July 10, 2025, the Corps synopsized the requirement.[4] Contracting Officer's Statement (COS) at 2. The synopsis explained that the contemplated work would support projects in the Corps's Northwestern Division, and include preparation of design/construction documents, design/build requests for proposals, and concept and schematic designs; planning, programming, surveying, and cost estimating; master planning services; and construction support services. Synopsis at 1-2. The agency sought to award "a target of five" indefinite-delivery, indefinite-quantity (IDIQ) contracts for 5-year periods of performance. *Id.* at 1. The synopsis provided that work would be issued pursuant to fixed-price task orders expected to range in value from $250,000 to $25 million, with a total "shared capacity" across all IDIQs of $200 million. *Id.*

Firms were advised that their qualifications would be evaluated under five criteria, listed in descending order of importance: (1) specialized experience and technical competence (experience); (2) professional qualifications; (3) past performance; (4) capacity; and (5) knowledge of locality.[5] *Id.* at 3. For each criterion, the selection board assigned an adjectival rating of exceptional, above average, average, marginal, unacceptable, or neutral (available only for past performance). AR, Tab 14, Selection Board Evaluation at 1.

---

[2] At the time the Corps published the synopsis, the procedures for construction and A/E contracts were set forth in FAR part 36. Subsequently, the Department of Defense (DoD) issued a class deviation to adopt the Revolutionary FAR Overhaul (RFO) versions of multiple FAR clauses and provisions, to include part 36, effective February 1, 2026. Department of Defense FAR Class Deviation No. 2026-O0019, available at https://www.acquisition.gov/sites/default/files/page_file_uploads/DoD_RFO_Deviation_Part-36.pdf (last visited Oct. 5, 2026).

The parties have not alleged or established that any distinctions between the prior and the RFO versions of FAR part 36 affect the analysis of the agency's actions in this procurement.

[3] The synopsis was amended once. References to the synopsis are to the amended version at tab 10 of the agency report.

[4] The synopsis for A/E services functions in a manner similar to a traditional solicitation. *See* FAR 36.301, 36.303, 36.601. In response to a synopsis for A/E requirements, interested firms submit a statement of qualifications using Standard Form 330 (SF330), A/E Qualifications. FAR 36.603(b). The evaluation procedures do not include price competition; rather, the agency must identify the most highly qualified firm and attempt to negotiate a contract with that firm at a fair and reasonable level of compensation. FAR 36.602; *see*, *Fire Risk Mgmt., Inc.*, B-411552, Aug. 20, 2015, at 2.

[5] The synopsis also identified secondary criteria of small business participation and volume of DoD contract awards that would "only be used as a 'tie-breaker' among firms that [were] essentially technically equal." Synopsis at 3. The secondary criteria are not relevant to this decision.

The agency received sixteen qualification statements (SF330) for evaluation by the August 21, submission deadline. COS at 4; Synopsis at 7. After its initial evaluation, the selection board ranked the submitted statements and identified the seven most highly qualified firms for interviews; MBIS's SF330 was ranked tenth. AR, Tab 13, Selection Board Record at 3; AR, Tab 6, Rationale for Elimination at 8. On March 5, 2026, the agency notified MBIS that it was not among the most highly qualified firms and would no longer be considered for award. AR, Tab 5, Notification.

Following a pre-award debriefing, MBIS filed an agency-level protest of the evaluation of the firm's SF330 with the Corps. COS at 25-26. On July 2, the Corps denied MBIS's agency-level protest. Protest at 5. On July 13, MBIS filed this protest with our Office.

DISCUSSION

The protester challenges various aspects of the evaluation of MBIS's statement of qualifications, including under the experience, professional qualifications, capacity, and past performance factors. Although we do not specifically address all of MBIS's arguments, we have considered each of them and find that, other than the experience issue discussed below, they afford no basis to sustain the protest.[6]

Specialized Experience and Technical Competence (Experience) Criterion

The protester contends that the agency unreasonably evaluated the firm's SF330 under the experience criterion. Comments at 2-8. The agency responds that its evaluation was reasonable and in accordance with the synopsis. Memorandum of Law (MOL) at 6-15.

In reviewing protests challenging the evaluation of a firm's qualification statement for A/E services, our Office examines the record to determine whether the agency's judgment was reasonable and in accordance with the stated selection criteria and applicable procurement laws. *AMEL Techs., Inc.*, B-412587.2, June 20, 2016, at 3; *OLBN Architectural Serv., Inc.*, B-402444.4, B-402444.5, Oct. 4, 2010, at 3. The

[6] For example, MBIS makes more than one argument based on statements alleged to have been made by the agency during the oral debriefing. *See, e.g.*, Protest at 7 (asserting an evaluation error was "compounded" by discussion during the debriefing). The evaluation record, however--not the alleged statements made during a debriefing--is the basis for our review. In this regard, our concern is with the manner in which the evaluation was conducted, because a debriefing is only an explanation of the agency's evaluation and selection decision, not the evaluation or decision itself. *Del-Jen Int'l Corp.*, B-297960, May 5, 2006, at 4. Accordingly, even if we viewed the protester's arguments in the light most favorable to the protester and assumed the agency made the alleged statements--which the Corps disputes--during the debriefing, that does not provide a basis for us to upset the agency's documented evaluation.

evaluation of firms' qualifications statements is within the discretion of the agency. *AMEL Techs., Inc.*, *supra* at 5. A protester's disagreement with an agency's evaluation judgments, by itself, does not demonstrate that those judgments are unreasonable. *Id.* at 4. We will, however, question the agency's conclusions where they are inconsistent with the evaluation criteria or applicable procurement statutes and regulations, where they lack adequate documentation, or where they are not reasonably based. *Evergreen JV*, B-418475.4, Sept. 23, 2020, at 6.

Under the experience criterion, offerors were to provide up to ten "completed projects that best demonstrate the specialized experience and technical competence of the firm" in the work set forth in the synopsis's definition of "project information." Synopsis at 3. The definition of project information advised that the work anticipated would include a variety of "facilities, structures, and sites, on military bases and other federal installations, as well as civil projects for the Corps," including "new construction, renovation, or maintenance of facilities." *Id.* at 1-2. Offerors were further directed that their examples should address specific experience set forth in "bullet items," including, as relevant here, "horizontal and vertical design"[7] and "historic preservation." *Id.* at 3-4. The synopsis advised that the Corps would only use the example projects set forth in section F of the SF330 to evaluate this factor, and that an offeror would be considered more highly qualified if the firm provided projects that were more similar to the requirement in size, complexity, and scope than those of other competitors. *Id.* at 4.

MBIS submitted ten example projects in section F of the firm's SF330. AR, Tab 8, MBIS SF330 at 32-52. The selection board assigned the firm's qualifications statement an adjectival rating of "above average" under the experience criterion based, in part, on five strengths assessed. AR, Tab 6, Rationale for Elimination at 8. The agency, however, also identified two weaknesses: (1) a "traditional DBB [design-bid-build] of a new construction vertical facility was not included"; and (2) MBIS "did not provide a project that included historic preservation features." *Id.* The protester challenges both weaknesses. We address each challenge below.

Traditional DBB of a New Construction Vertical Facility

MBIS argues that, in assessing a weakness to the protester's qualifications statement for not including a "traditional DBB of a new construction vertical facility" within the ten projects under the experience factor, the agency used an unstated evaluation factor. Protest at 6-7; Comments at 2-8. In this regard, MBIS contends that the synopsis instructed offerors to demonstrate their experience and competency in the wide range of projects anticipated under the IDIQ contracts and specifically disclaimed a requirement

[7] Generally, vertical construction refers to commercial or residential building projects, while horizontal construction refers to infrastructure projects like roads. American Bar Association, Fundamentals of Construction Law 8.II.A (Lauren E. Catoe *et. al*, eds., 2d ed. 2013).

that any single project reflect a particular delivery method or other characteristics. Comments at 3-5.

The agency maintains that it reasonably assessed the weakness. According to the agency, it "certainly should have been expected that offerors should submit projects that covered the broadest scope of services, which unquestionably would include projects that were 100% designed for a contractor to build new construction, both vertical and horizontal, under a [DBB] procurement method." MOL at 7.

Agencies are required to evaluate proposals based solely on the factors identified in the solicitation, and must adequately document the bases for their evaluation conclusions. *Intercon Assocs., Inc.*, B-298282, B-298282.2, Aug. 10, 2006, at 5. Where a protester challenges the evaluation as unfairly utilizing unstated evaluation criteria, our Office will assess whether the solicitation reasonably informs vendors of the basis for the evaluation. *Raytheon Co.*, B-403110.3, Apr. 26, 2011, at 5. While agencies properly may apply evaluation considerations that are not expressly outlined in the synopsis if those considerations are reasonably and logically encompassed within the stated evaluation criteria, there must be a clear nexus between the stated and unstated criteria. *Raytheon Co.*, B-404998, July 25, 2011, at 15-16. An agency may not give importance to specific factors, subfactors, or criteria beyond that which would reasonably be expected by offerors reviewing the stated evaluation criteria. *Risk Analysis & Mitigation Partners*, B-409687, B-409687.2, July 15, 2014, at 6.

Here, the synopsis defined the potential scope of the work broadly in the project information section, to include both horizontal and vertical construction; "new construction, renovation, or maintenance of facilities"; and a range of design responsibilities. Synopsis at 1-2. Firms were instructed to provide examples of up to ten projects that best demonstrated their experience and competence to execute that broad scope of work. *Id.* at 3. The instructions directed offerors to address specific types of work provided in a bulleted list. Relevant here, the list did not include reference to DBB projects, generally, or to DBB of a new construction vertical facility projects, specifically. *Id.* at 3-4.

Indeed, in the question and answer (Q&A) exchange published as part of the synopsis, the agency was asked if the Corps had "a preference for type of project delivery for Section F projects," and "is there a scoring preference for DBB/full design projects over DB [design-build] . . . projects?"[8] AR, Tab 9, Q&A at 1. The Corps responded, "[t]here is not a preference," and that the "board will be most concerned with evaluating a firm's ability to execute all work types identified in the synopsis" definition of the potential scope of the work above. *Id.* at 1. In addition, when asked if there was a "preference

[8] The FAR defines DBB as "the traditional delivery method where design and construction are sequential and contracted for separately with two contracts and two contractors," while DB is described as "combining design and construction in a single contract with one contractor." FAR 36.102.

for the number of vertical and horizontal projects," the Corps responded that "selection of the projects is up to the Offeror," reiterating that the "board is concerned with verifying that a firm has the capability to perform all aspects of anticipated work." *Id.* at 10.

Under this criterion, the evaluators assigned a strength to MBIS's ten reference projects because the firm's qualification statement "demonstrated significant technical competency across diverse military projects, encompassing various vertical and horizontal design disciplines" and "also demonstrated a broad range of services as defined within the Synopsis such as horizontal design/ construction documents." AR, Tab 6, Rationale for Elimination at 8. As the agency acknowledges, three of the protester's projects were "examples of DBB performance" relevant to the project scope--including "a DBB for vertical construction" for renovation of a dormitory and two DBBs for "campus-wide designs of both vertical and horizontal construction without sufficient further breakout of facility specifics regarding each type" of construction. MOL at 9. In this connection, however, the record does not mention any concern about a lack of specific information. Rather, the weakness appears to have been assigned solely because one of the ten projects was not devoted to a DBB design for a singular new construction vertical facility. AR, Tab 6, Rationale for Elimination at 8 ("A traditional DBB of a new construction vertical facility was not included in the ten example projects."); *see also* MOL at 9 ("A closer examination of the actual weakness language makes it clear that [MBIS] received a weakness because it did not have a project that demonstrated the ability to provide a DBB design for a singular '<u>new construction vertical facility</u>.'"). In short, the only documented rationale for the Corps's assignment of the weakness is encapsulated in the lone sentence quoted above.

In the agency report responding to the protest, the Corps contends that this weakness was reasonably assigned because a DBB design for a singular new construction vertical facility was "one of the more likely types of design that might be requested" under these IDIQ contracts. MOL at 9. The Corps argues that while two of the identified projects were "campus-wide designs of both vertical and horizontal construction" that demonstrated "full design under a DBB procurement method," the projects were "different from the design of a single vertical construction building that would be built on an existing campus." *Id.* at 9-10. The agency does not explain why performing a contract for DBB vertical construction of a single building is unique, or meaningfully different from performing the same kind of DBB for vertical construction on a project that also includes DBB for horizontal construction work. In other words, the agency offers no explanation for why the addition of the horizontal construction work negates the comparability of the DBB for vertical construction work experience to a standalone DBB vertical construction project.

As we have explained, while we will not substitute our judgment for that of the agency, we will question the agency's conclusions where they are inconsistent with the solicitation criteria and applicable procurement statutes and regulations, undocumented, or not reasonably based. *Public Commc'ns Servs., Inc.*, B-400058, B-400058.3, July 18, 2008, at 17. Based on our review of the record here, we cannot find the agency's interpretation--that the synopsis put offerors on notice the agency expected (or

required) firms to submit at least one reference project that reflected the DBB delivery style for a project limited to new construction of a single building--to be reasonable. This is particularly true where the agency twice advised offerors through Q&As that their ten projects should demonstrate the breadth of the potential scope of work under the synopsis, and that the agency did not have a preference for DBB or any other type of project delivery, or an expectation for a specific representation of vertical versus horizontal construction. AR, Tab 9, Q&A at 1, 10. Consequently, the agency's assignment of a weakness to MBIS for failing to identify a project that met this unstated evaluation criterion is unreasonable, because it is inconsistent with the synopsis's stated evaluation factors. *Exelis Sys. Corp.*, B-407111 *et al.*, Nov. 13, 2012, at 18-19 (sustaining protest for application of unstated evaluation criterion where agency assessed weakness for failure to submit specific type of experience not explicit in or reasonably encompassed by stated criteria).

Competitive prejudice is an essential element of every viable protest. *MetroStar Sys., Inc.*, B-419890, B-419890.2, Sept. 13, 2021, at 9. Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions; that is, unless the protester demonstrates that, but for the Agency's actions, it would have had a substantial chance of receiving the award--or, as here, being ranked among the most highly qualified offerors. *Id.*; *Evergreen JV*, *supra* at 15.

The Corps argues that any error in the assessment of this weakness did not unfairly competitively prejudice the protester because MBIS was ranked tenth in the firms competing for the target of five awards. MOL at 21-22. In this connection, the agency identified the firms ranked from first to seventh as the most highly qualified for purposes of negotiations. AR, Tab 13, Selection Board Record at 3. The seventh-ranked firm received the same adjectival ratings for each of the evaluation factors as MBIS, with one exception; that firm received an adjectival rating of exceptional under the experience factor--the most important of the five evaluation criteria--and MBIS received an adjectival rating of above average. COS at 19. The seventh-ranked firm received the rating of exceptional based on the identification of six strengths similar to the five strengths identified in MBIS's submission, and a single minor weakness, compared to MBIS's two weaknesses--the one discussed here and a minor weakness. *Compare* AR, Tab 7, Rationale for Ranking at 21-22 *with* AR, Tab 6, Rationale for Elimination at 8.

Based on the record before us, we cannot say with any certainty whether removing the unreasonably assessed weakness in MBIS's qualifications statement might have resulted in the selection board evaluating the submission as technically superior, warranting assignment of the highest adjectival rating of exceptional rather than the rating of above average, or otherwise been considered equivalent in merit to at least one firm that was ranked as one the most highly qualified. In such circumstances, we resolve any doubts regarding prejudice in favor of the protester because even a reasonable possibility of prejudice forms a sufficient basis to sustain a protest. *Immersion Consulting, LLC*, B-415155.4, B-415155.5, May 18, 2018, at 9. Accordingly, we conclude that MBIS has established the requisite competitive prejudice to prevail in

its bid protest of this single issue and we sustain the protest on this basis. As discussed below, we find the remaining grounds of protest to be without merit.

Historic Preservation Features

Under the experience criterion, MBIS also argues that the agency's assessment of a minor weakness to the protester's qualifications statement for not providing "a project that included historic preservation features" is unreasonable. AR Tab 6, Rationale for Elimination at 8. According to the protester, the weakness is "contradicted by the four corners of the [firm's] submission." Protest at 7. Specifically, the protester claims that what MBIS presented within the example projects sufficiently met the requirements of the evaluation criterion, and that the agency was unreasonable in assessing a weakness for not providing more:

> As evidence of its experience with historic preservation, MBIS submitted Example Project No. 10, the [DELETED] Facilities. Under Example Project No. 10, MBIS explained that it had leveraged its "rich experience in preserving historic structures, integrating architectural style, and honoring cultural significance."

Comments at 6 (citations omitted). The protester argues that, to the extent more detail was required, the agency could have gleaned that detail from the explanation of its "historic preservation qualifications" in a separate section of the qualifications statement. *Id.* at 7.

Relevant here, one of the identified experiences the synopsis listed under the experience criterion is "[e]xperience with historic preservation." Synopsis at 4. The agency maintains that it reasonably assessed the weakness. The Corps acknowledges that MBIS made passing reference to historic preservation in the [DELETED] facilities example project, but the agency avers that there was not enough information to understand the scope, nature, or success of any historic preservation involved. MOL at 12. In this regard, the Corps asserts that it had no obligation to search and rely on other parts of the submission to evaluate MBIS's capabilities; indeed, the agency posits that the synopsis specifically prohibited the selection board from doing so. *Id.* at 14 ("Based on the terms of the Synopsis, the Evaluation Board could not consider any information provided outside of Section F for this first criterion.").

As our decisions have explained, it is an offeror's responsibility to craft a well-written submission with adequately detailed information to allow for a meaningful review by the procuring agency. *Design Eng'g, Inc.*, B-408336.3, May 6, 2014, at 6. Where an offeror fails to do so, it runs the risk that a procuring agency will evaluate the firm's submission unfavorably. *International Med. Corps*, B-403688, Dec. 6, 2010, at 7.

Although the protester expresses its opinion that its SF330 adequately responded to the synopsis's direction to address historic preservation, the evaluators found otherwise. Disagreement with the agency's conclusions, without more, provides no basis for us to

question the agency's evaluated judgments. *Innovative Mgmt. Concepts, Inc.*, B-419834.2, B-419834.3, Sept. 20, 2021, at 7. In this regard, although the protester claims that one example project did address the historic preservation experience that the evaluators determined was missing, MBIS does not explain how that example project's description went beyond a simple high-level statement that the project involved historic preservation. Protest at 7; *see Valbin Corp.*, B-416680, Nov. 9, 2018, at 7 (noting "mere fact" that protester used specific term from solicitation in its proposal did not mean that proposal "adequately addressed the [associated] stated evaluation criterion").

Furthermore, we find unavailing the protester's reliance on a separate section within its SF330 to demonstrate that its qualification statement contained more detailed description regarding the firm's historic preservation experience. *See* Comments at 7. As we've discussed, an agency is not required to search other sections of an offeror's submission for information to meet requirements related to a different section. *Dawson Sols., LLC*, B-418587, B-418587.2, June 19, 2020, at 6. This is particularly true, where, as here, the synopsis specifically advised firms that the agency would "only use the ten example projects to evaluate" the experience factor without reference to other parts of the submission. Synopsis at 4. For the above reasons, this allegation is denied.

Professional Qualifications Criterion

Under the professional qualifications criterion, firms were required to "demonstrate professional personnel qualifications and specialized experience in the design of military and federal facilities for key design disciplines." Synopsis at 4. The synopsis required submission of 25 resumes for 19 specific positions in section E of the SF330, including, for example, "two (2) project managers (team leaders) for task orders, both registered as a Professional Engineer or Architect." *Id.* at 4-5. Then, firms were required to complete the Section G "matrix" of the SF330, to indicate if each key person proposed for this work was involved in the same or a similar role in each of the ten example projects from the experience factor discussed above. Below is an example of the matrix to be completed by offerors in the SF330:

SAMPLE ENTRIES FOR SECTION G *(MATRIX)*

26. NAMES OF KEY PERSONNEL *(From Section E, Block 12)*	27. ROLE IN THIS CONTRACT *(From Section E, Block 13)*	28. EXAMPLE PROJECTS LISTED IN SECTION F *(Fill in "Example Projects Key" section below first, before completing table. Place "X" under project key number for participation in same or similar role.)*									
		1	2	3	4	5	6	7	8	9	10
Jane A. Smith	Chief Architect	X		X							
Joseph B. Williams	Chief Mechanical Engineer	X	X	X	X						
Tara C. Donovan	Chief Electricial Engineer	X	X		X						

SF330, Architect-Engineer Qualifications, available at https://www.gsa.gov/reference/forms/architectengineer-qualifications (last visited Oct. 5, 2026). The synopsis provided that the Corps would use the resumes and matrix to "evaluate and consider education, training, professional registration, certification, overall and relevant experience, and longevity with the firm" as well as capability "of certifying that all work is in compliance with all applicable codes and regulations." Synopsis at 5-6.

The selection board evaluated MBIS's SF330 under this criterion and assigned an adjectival rating of above average, identifying six strengths based on the experience, education, and certifications of the personnel proposed. AR, Tab 6, Rationale for Elimination at 8-9. The agency also identified a weakness based on the Section G matrix, which the Corps characterized as "relatively sparse, with half the personnel listed as having been involved in zero to one projects, including one of the [project managers]," and despite the established relationship of MBIS as a joint venture, "the sample projects did not showcase successful projects they have accomplished as a team." *Id.* at 9.

The protester challenges this weakness assessed under the professional qualifications criterion as "unreasonable and, in material respects, factually incorrect." Protest at 8. First, MBIS alleges the agency's evaluation was overly reliant on the Section G matrix and failed to consider the qualitative merits of the proposed key personnel from their resumes. Comments at 8-9. The agency responds that the weakness was reasonably assessed based on MBIS's SF330 and the terms of the synopsis. MOL at 15-17.

As an initial matter, our review finds that, contrary to the protester's assertions, the agency's evaluation did consider the features that MBIS identifies as overlooked. AR, Tab 6, Rationale for Elimination at 8-9. Indeed, the agency assessed six strengths based on the experience, expertise, and qualifications of the key personnel (including tenure at the relevant entities). The agency's concern was that the Section G matrix itself was "sparse" and that half of the key personnel proposed were identified as performing a similar role on very few of the example projects. AR, Tab 6, Rationale for Elimination at 9. The Corps noted that, of the 25 key personnel, [DELETED] individuals had not participated in any of the example projects and [DELETED] were involved on only a single example project. MOL at 17. The record supports the agency's characterization of the matrix. AR, Tab 8, MBIS SF330 at 54. Although MBIS argues that the assessments are inaccurate as to the firm's professional qualifications overall, MBIS offers no argument that they are inaccurate as to the matrix itself. *See Inflowlogistics LLC*, B-422811.3, Jan. 20, 2026, at 6 (denying protest challenging weakness where "protester's argument mischaracterizes the issue identified in the weakness by the agency"). The protester simply disagrees with the agency's evaluation in this regard.

Second, the protester contends that the agency's consideration of whether the matrix evidenced successful teamwork among the key personnel is an unstated evaluation criterion. Comments at 9-10. As noted above, the weakness at issue was based in part on the agency's conclusion that although "the JV has an established relationship," the

ten sample projects "did not showcase successful projects they have accomplished as a team." AR, Tab 6, Rationale for Elimination at 9. That is, although the example projects were all performed by the JV or its members, the matrix of key personnel did not "showcase" MBIS's working relationship. *See id.*

The agency responds that such consideration is reasonable and consistent with the synopsis:

> One of the purposes of the Section G matrix, as used by the Corps of Engineers overall, is to assess whether key personnel have worked together and created a sense of team cohesiveness. A team that has historically worked together and successfully accomplished projects is an indicator that it will be able to successfully do it in the future.

MOL at 16 (quoting AR, Tab 12, Decl. of Board Chairman at 4-5). In other words, the agency asserts that the teamwork of key personnel is reasonably and logically encompassed in the professional qualifications criterion.

Our review, again, finds no basis to question the reasonableness of the assessment of the weakness. As noted above, agencies may properly evaluate a proposal based on considerations not expressly stated in the solicitation where those considerations are reasonably and logically encompassed within the stated evaluation criteria, and where there is a clear nexus between the stated and unstated criteria. *Raytheon Co.*, B-404998, *supra*, at 15-16. The professional qualifications factor required submission of resumes for 25 key personnel and directed that they be mapped to reflect participation in each of the ten example projects for evaluation of, among other things, overall and relevant experience and capability to certify that all work is performed properly. Synopsis at 4-5. While the synopsis did not explicitly require that offerors demonstrate a history of successful teamwork among the proposed key personnel, the nature of the evaluation of a team of key personnel for such experience and capability reasonably encompasses such consideration. *See Immersion Consulting, LLC*, B-420638, B-420638.2, June 30, 2022, at 6-7 (rejecting protest alleging unstated evaluation criterion where basis for weakness was "reasonably subsumed within" the stated staffing evaluation factor).

Past Performance Criterion

In challenging the evaluation of the firm's past performance, MBIS argues that its "record is exceptional by any reasonable measure" and should have been rated exceptional rather than above average. Protest at 9. Most specifically, the protester contends that the evaluation reflects disparate treatment because MBIS received a higher percentage of exceptional ratings in past performance evaluations than other firms that received the highest adjectival rating. Comments at 10.

The Corps avers that the past performance evaluation of MBIS was reasonable and consistent with the synopsis. MOL at 17-20. According to the agency, the protester has

not established that MBIS's past performance record is on par with the exceptional rated firms, in terms of relevance of past work to the projects anticipated here and in terms of evaluated success of performance. Supp. MOL at 11-17.

An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion which we will not disturb unless the assessment is unreasonable or inconsistent with the solicitation criteria. *BC Site Servs., LLC*, B-420797.6, Feb. 1, 2024, at 4. The evaluation of past performance, by its very nature, is subjective, and we will not substitute our judgment for reasonably based evaluation findings. *Intercontinental Constr. Contracting, Inc.*, B-415040 *et al.*, Nov. 8, 2017, at 7. A protester's disagreement with the agency's judgment does not establish that an evaluation was unreasonable. *APC Constr., LLC*, B-419771, July 13, 2021, at 6.

In conducting procurements, agencies may not engage in conduct that amounts to unfair or disparate treatment of competing offerors. *UltiSat, Inc.*, B-416809 *et al.*, Dec. 18, 2018, at 9. To prevail on an allegation of disparate treatment, a protester must show that the agency unreasonably assessed weaknesses or failed to assess strengths for aspects of its proposal that were substantively indistinguishable from, or nearly identical to, those contained in another proposal. *Cognosante MVH, LLC*, B-418986 *et al.*, Nov. 13, 2020, at 5.

As provided by the synopsis, the evaluation under this criterion would be based on "past performance on DoD and other contracts performing work similar in size and scope" to that set forth in the synopsis. Synopsis at 6. In evaluating MBIS, the selection board assigned an adjectival rating of above average, noting as a strength that the past performance reviews of all of MBIS's example projects were rated satisfactory or above, with the majority of elements rated very good or higher. AR, Tab 6, Rationale for Exclusion at 9.

Here, the record demonstrates that ratings under this criterion resulted from the agency's assessment of the quality and relevance of the past performance references associated with the individual firms. *Compare*, *e.g.*, AR, Tab 7, Rationale for Ranking at 3, 7-8, 10, 13, 16, 19-20, 23 (documenting past performance evaluation of firms included among the most highly qualified) *with* AR, Tab 6, Rationale for Elimination at 9. As the agency explains, each of the firms that received the highest ratings offered past performance references that were particularly relevant to the work contemplated here, as opposed to the (merely) relevant references MBIS offered. Supp. MOL at 11-12. On this record, we find the agency's evaluation of past performance to be reasonable and consistent with the stated evaluation criterion. The protester's disagreement with evaluators' assessment of the firm's past performance, without more, provides no basis to sustain. *Candor Sols., LLC*, B-417950.5, B-417950.6, May 10, 2021 at 15 (denying protest challenging past performance evaluation as mere disagreement, without more, with the agency's judgment).

With respect to the protester's allegation that the agency was unequal or disparate in its evaluation of offerors' past performance, the protester did have a higher percentage of ratings of very good or exceptional in its past performance references as compared to six of the seven firms that were ranked most highly qualified. *Compare* AR, Tab 7, Rationale for Ranking at 3, 7-8, 10, 13, 16, 19-20, 23 (documenting past performance evaluation of firms included among the most highly qualified) *with* AR, Tab 6, Rationale for Elimination at 9. Those firms, however, had past performance that was evaluated as more relevant than MBIS's, and also had other qualitative strengths. *Id.* For example, one firm received a strength based on its past performance history of "a very complex project being executed during COVID restrictions and requiring redesign" with uniformly exceptional ratings. AR, Tab 7, Rationale for Ranking at 3. MBIS offered no such comparable past performance successes. In this regard, the record reflects that the firms' past performance histories were neither identical nor substantively indistinguishable. Consequently, we do not find that the agency was disparate in its evaluation of offerors' past performance. *Koniag Mgmt. Sols., Inc.*, B-423051, B-423051.2, Jan. 10, 2025, at 6-7 (denying allegations of disparate treatment in past performance evaluation). The challenges to the agency's evaluation of past performance are denied.

Capacity Criterion

Finally, the protester contends that the agency should have assigned an adjectival rating of exceptional, rather than above average, to MBIS's qualifications statement under the capacity criterion. Comments at 12-13. Essentially, the protester argued that the agency should have assigned the firm the highest adjectival rating to MBIS's SF330, because the agency had identified two strengths and no weaknesses under this factor. *Id.* The agency defends its evaluation as reasonable and consistent with the synopsis. MOL at 20-21.

We have consistently stated that the essence of an agency's evaluation is reflected in the evaluation record itself, not the adjectival ratings. *Stateside Assocs., Inc.*, B-400670.2, B-400670.3, May 28, 2009, at 9. Moreover, as a general matter, adjectival descriptions and ratings serve only as a guide to, and not a substitute for, intelligent decision-making. *Science Applications Int'l Corp.*, B-407105, B-407105.2, Nov. 1, 2012, at 9. The relevant question here is not what adjectival rating should have been assigned by the agency, but whether the underlying evaluation is reasonable and supports the source selection decision. *See INDUS Tech., Inc.*, B-411702 *et al.*, Sept. 29, 2015, at 4.

The synopsis defined capacity as "the ability to complete task orders within a reasonably aggressive schedule" as demonstrated by "accomplish[ing] multiple task orders annually with an aggregate value of $15,000,000 or more," offering adequate qualified personnel, and articulating a management plan. Synopsis at 6. Under this criterion, the evaluators identified the following as a strength in MBIS's qualification statement: (1) substantial personnel resources available; (2) an established and

detailed management plan; and (3) a "well-established relationship between the JV partners and slate of subconsultants." AR, Tab 6, Rationale for Exclusion at 9.

In raising this challenge, the protester assumes that MBIS was entitled to the highest possible rating of exceptional, such that the agency is required to document why the Corps, instead, assigned a "lower rating" of above average. Comments at 12-13. The protester does not otherwise argue why the substance of its submission merited the highest possible rating or why the underlying evaluation does not support the rating assigned by the agency. As such, we find MBIS's simple disagreement with the assigned rating provides no basis to conclude that the agency's evaluation was unreasonable. This challenge is also denied. *Stateside Assocs., Inc.*, *supra*.

RECOMMENDATION

We recommend that the agency reevaluate MBIS's qualifications statements under the specialized experience and technical competence criterion consistent with the terms of the synopsis and make a new ranking of the most highly qualified firms based on that reevaluation. We also recommend that MBIS be reimbursed the costs of filing and pursuing the protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). MBIS should submit its certified claim for costs, detailing the time expended and costs incurred, directly to the contracting agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained in part and denied in part.

Edda Emmanuelli Perez
General Counsel