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# Decision

**Matter of:** Guident Technologies, Inc.

**File:** B-405112.3

**Date:** June 4, 2012

Peter A. Deliso, Esq., and Nelson Blitz, Esq., Executive Counsel PLC, for the protester.

Robert E. Korroch, Esq., William Alexander Wozniak, Esq., and Anthony Hotchkiss Anikeeff, Esq., Williams Mullen, for Claraview, the intervenor.

Michelle L. Sabin, Esq., Defense Information Systems Agency, for the agency.

Kenneth Kilgour, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

## DIGEST

1. Protest that awardee had an unmitigated impaired objectivity organizational conflict of interest was timely filed after the agency selected the awardee for award, notwithstanding the fact that the protester knew, prior to award, that the awardee was competing under the solicitation, and the basis for the alleged conflict.

2. Protest is denied where the contracting officer gave meaningful consideration to whether the awardee had an impaired objectivity organizational conflict of interest and there is no clear evidence in the record that the agency's conclusion was unreasonable.

## DECISION

Guident Technologies, Inc., of Herndon, Virginia, protests the award of a contract to Claraview, a division of Teradata, of Reston, Virginia, under request for proposals (RFP) No. HC1028-10-R-2038 issued by the Defense Information Systems Agency (DISA), Department of Defense (DoD), for Data Management (DMO), Enterprise Data Warehouse (EDW), and Business Intelligence (BI) support services for the Defense Commissary Agency (DeCA). The protester alleges that the awardee has an impaired objectivity organizational conflict of interest (OCI).<sup>1</sup>

<sup>1</sup> The protester also alleged several improprieties in the agency's evaluation of the protester's and the awardee's proposals. For example, Guident asserts that the

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We deny the protest.

## BACKGROUND

The RFP was for the award of an indefinite delivery/indefinite quantity (IDIQ) contract, under which DISA would issue fixed-price and time and material task or delivery orders. The RFP had a 9-month base term, with four 1-year options. The contract is for technical services for the on-going, day-to-day maintenance, sustainment and enhancement of DeCA's existing data warehouse and business intelligence environment. The RFP included a performance work statement (PWS), which described the following seven broad categories of tasks: Task 1, Project Management, Configuration Management and Technical Documentation; Task 2, Operational Support and Sustainment, Security/Information Assurance and Disaster Recovery; Task 3, Enterprise Data Management; Task 4, Business Intelligence User Support; Task 5, Enhancement of Enterprise Data Environment; Task 6, Design and Development of Enterprise Data Environment; and Task 7, Enterprise Business Analysis. RFP at 68.

In addition, the RFP included a sample task order PWS, which identified somewhat more specific tasks, which are traceable to the tasks set forth in the PWS. For example, as it relates to the protest, under sample Task 6.2.1, Operational Support and Sustainment, the RFP identifies numerous specific subtasks that relate to PWS Task 2, Operational Support and Sustainment, Security/Information Assurance and Disaster Recovery. In this regard, sample Task 6.2.1.1, Systems Administration, includes nine bulleted items to include, among others, "[p]rovide 24x7 on-call Systems Administration support," "[m]onitor the daily operational status of the EDW platforms (test, production and disaster recovery) and coordinate resolution of problems encountered with the vendor Teradata (proprietary hardware and software maintenance support covered under separate contract with the Teradata vendor)," and "[m]aintain production development/test and disaster recovery platforms (hardware and software) to include monthly maintenance." RFP at 112-13.

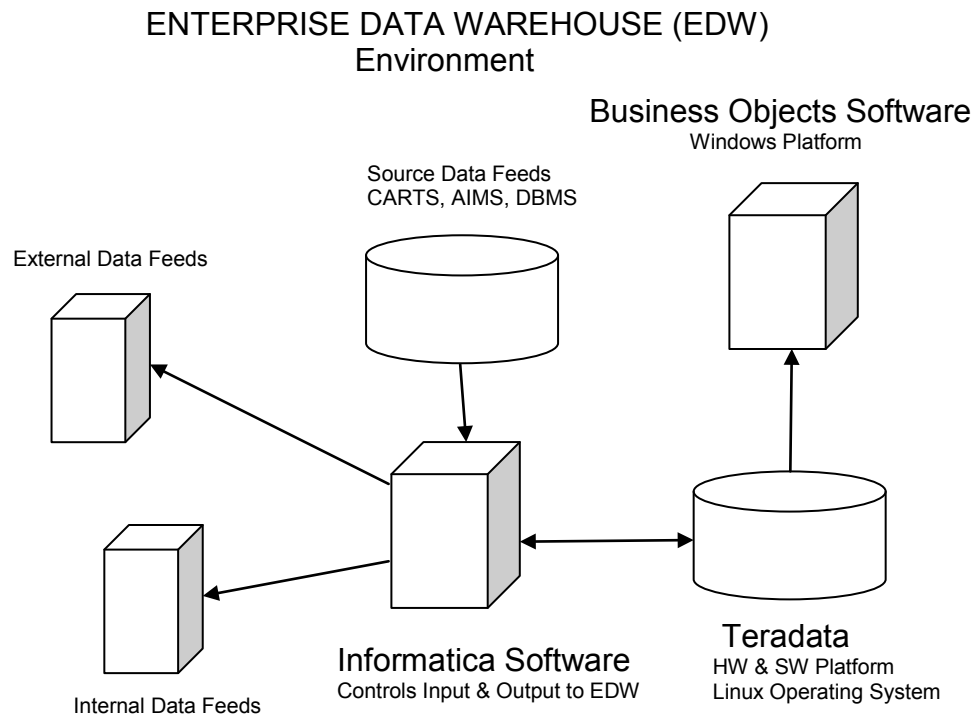
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agency's failure to identify any strengths in its proposal under technical approach was unreasonable. Protest at 29-30. The agency responded substantively to each of these allegations in its agency report. For example, the agency's response references the Team Consensus report for Guident, which contained the agency's detailed evaluation of Guident's proposal under technical approach. See Agency Report (AR), Tab 6, Guident Team Consensus Report at 3-5. Because Guident's comments on the agency report did not meaningfully rebut the agency's position that it properly evaluated the technical proposals, we have no basis to conclude otherwise. To the extent that the protester's April 19 comments contained Guident's first substantive response to the agency report, which was issued March 26, they were untimely. See 4 C.F.R. § 21.3(i).

The agency estimates that maintenance and support requirements constitute 95 percent of contract performance, with the balance an evaluation of the existing EDW environment for system-wide efficiencies and improvements. Agency Comments, Apr. 13, 2012 at 11. Proposals would be evaluated on three factors-- technical management, past performance, and cost/price. Technical management was more important than past performance; those two factors combined were more important than price. The RFP incorporated Federal Acquisition Regulation (FAR) clause 52.209-9000, Organizational and Consultant Conflicts of Interest (OCCI), which required offerors to identify any potential conflicts of interest. Award would be made to the offeror that represents the best value to the government.

Figure 1 below depicts the current EDW environment, which includes the Teradata data warehouse, Informatica software, and Business Objects software.



**FIGURE 1**

Agency’s Response to Protester’s Comments, Apr. 13, 2012, at 4.

Working together, Teradata software and hardware, Informatica software, and Business Objects software allow DeCA to access and use internal data, external data, and source data feeds. Informatica software is used as the extraction translation load (ETL) tool, acting as the “translator” of the data so that it can be successfully integrated into the Teradata data warehouse. The Business Objects software, hosted on a Windows platform, provides access to the data in the Teradata data warehouse via reports, ad hoc queries, and other means. These

various parts comprise the EDW environment that the contractor will maintain and sustain. See Id.

The RFP stated that the “Government reserves the right to conduct a price realism analysis to determine whether an offeror’s proposed prices are realistic for the work to be performed, reflect a clear understanding of the requirements and are consistent with the various elements of the technical proposal.” RFP, Amend. 3 at 23 (emphasis added). The RFP also provided that “[t]he offeror’s cost/price proposal will be evaluated using one or more of the techniques defined in FAR [§] 15.404, in order to determine if it is reasonable and realistic.” Id. at 21.

This protest is the third award challenge under this solicitation. The first award was made to Guident in May 2011. In response to Claraview’s challenge to that award, the agency took corrective action, and Claraview withdrew its protest. In November 2011, the agency made award to Claraview. In response to Guident’s protest to this Office, alleging, in part, that the agency failed to consider the fact that Claraview had an unmitigated impaired objectivity OCI, the agency again took corrective action. We dismissed the protest as academic. See Guident Technologies, Inc., B-405112.2, Dec. 19, 2011. The contracting officer then memorialized her determination that Claraview did not have a significant OCI. See AR, Tab 8, Contracting Officer’s Memo for Record, Feb. 3, 2012. After conducting its second corrective action, the agency again made award to Claraview,<sup>2</sup> and this protest followed, alleging that the award was improper because the agency failed to reasonably assess Claraview’s impaired objectivity OCI.<sup>3</sup>

## DISCUSSION

### Timeliness

As a preliminary matter, the agency and intervenor argue that Guident’s OCI allegation should be dismissed as untimely because the protester knew, or should

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<sup>2</sup> When the agency made award to Claraview, it also issued the firm a delivery order covering the first five tasks.

<sup>3</sup> In its comments on the agency report, the protester, for the first time, alleges that Claraview also has an unequal access to information OCI. Comments, Apr. 6, 2012 at 2. Without elaboration, Guident asserts that performance of the contested contract would give Teradata access to confidential information that will “allow it to better compete in a future competition.” Id. This allegation is dismissed. First, the allegation appears to raise the specter of an unfair advantage with respect to a future procurement; thus, the argument is premature at this juncture. Second, the allegation is untimely where it was filed more than 10 days after the protester knew or should have known the basis of its protest. See 4 C.F.R. § 21.2(a)(2).

have known, at the time the agency decided to take corrective action in response to Claraview's protest, that Claraview would be permitted to compete under the solicitation, notwithstanding the impaired objectivity OCI that Guident has now alleged. Thus, to be timely, they maintain that Guident's OCI allegation should have been filed within 10 days of having received the agency's notice that it was taking corrective action. According to the agency and intervenor, when Guident received the agency's notice of corrective action, which indicated that the agency would reevaluate proposals, the protester was aware of the underlying basis for the OCI allegation--Teradata's and Claraview's affiliation (it was a matter of public record)--and that Claraview was an actual competitor as a consequence of Claraview's protest. In support of its timeliness argument, the agency principally relies on CRAssociates Inc. v. United States, 102 Fed. Cl. 698 (2011).

A protester's allegation that another firm has a conflict of interest is generally premature when filed before an award has been made. REEP, Inc., B-290688, Sept. 20, 2002, 2002 CPD ¶ 158 at 1-2. This conclusion reflects the underlying principle that a protester is charged with knowledge of the basis for protest only at the point where the agency conveys to the protester the agency's intent to follow a course of action adverse to the protester's interests. CDR Enterprises, Inc., B-293557, Mar. 26, 2004, 2004 CPD ¶ 46 at 3. In the context of an alleged organizational conflict of interest, that point typically is when the protester is notified of the agency's selection decision.

Although the protester knew that Claraview was a competitor based on Claraview's protest of the agency's initial award decision, and also knew that the agency intended to reevaluate Claraview's proposal as part of its corrective action, Guident's allegation concerning Claraview's impaired objectivity OCI only became viable when the agency actually selected Claraview for award. Our conclusion in this regard is consistent with the rule articulated above, that an alleged OCI is typically premature when raised before the protester is notified of the agency's selection decision. We also note that this conclusion is consistent with Federal Acquisition Regulation (FAR) § 9.504(e), which allows contracting officers to address OCI concerns with the "apparent successful offeror." Thus, until Claraview became the apparent successful offeror as a consequence of the agency's corrective action, and the agency selected Claraview for award, Guident's protest remained premature, notwithstanding the fact that it may have understood Claraview to have an impaired objectivity OCI. See REEP, Inc., *supra*.

In reaching this conclusion, we reject the agency's contention that CRAssociates dictates a different result. In that case, the protester challenged the agency's failure to address, as part of post-protest corrective action, the awardee's alleged unfair competitive advantage stemming from the firm's alleged unequal access to information, which the protester characterized as creating an OCI. In essence, the protester argued that the competitive playing field had been tilted in the awardee's

favor as a consequence of the awardee's unequal access to information OCI, and that the agency failed to address this concern.

The Court held that the protester waived its challenge of the underlying unequal access to information OCI where it had initially raised its concerns with the agency, asked the agency to amend the solicitation to address the concerns that it believed arose from the awardee's alleged unequal access to information, the agency issued several succeeding amendments that did not address the protester's concerns, and the protester did nothing, instead choosing to wait until after award to challenge the agency's failure to amend the solicitation. See CRAssociates, Inc., supra at 712.

Here, unlike the protester in CRAssociates, Inc., Guident has not argued that Claraview's OCI afforded it an unfair competitive advantage such that the agency needed to take measures to level the competitive playing field. Rather, the protester has simply challenged the award to Claraview based on that firm's alleged unmitigated impaired objectivity OCI, a matter which principally concerns Claraview's ability to perform its contractual obligations free of improper bias. Since this issue fundamentally concerns the propriety of the agency's award decision, not the fairness of the underlying competition, Guident properly waited until after award to protest Claraview's OCI.<sup>4</sup>

#### Impaired Objectivity OCI

The protester alleges that the agency unreasonably concluded that Claraview lacks an impaired objectivity OCI. As a general matter, the FAR requires that contracting officers avoid, neutralize or mitigate potential significant OCIs. FAR § 9.504(a). With respect to impaired objectivity OCIs, the FAR advises that "[c]ontracts for the evaluation of offers for products or services shall not be awarded to a contractor that will evaluate its own offers for products or services, or those of a competitor, without proper safeguards to ensure objectivity to protect the Government's interest." Id. at § 9.505-3, Providing Evaluation Services. The FAR advises contracting officers to examine each situation individually and to exercise common sense, good judgment, and sound discretion in assessing whether a significant

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<sup>4</sup> We have applied a different rule, however, where an agency specifically advises a protester before award that it considers the firm with the alleged conflict to be eligible for award. See, e.g., Raydar & Associates, Inc., B-401447, Sept. 1, 2009, 2009 CPD ¶ 180 at 3; Honeywell Tech. Solutions, Inc., B-400771, B-400771.2, Jan. 27, 2009 CPD ¶ 49 at 6-7. In those cases, timeliness of the protest is measured from the date when the protester receives explicit notice from the agency that the firm with the alleged conflict of interest is considered eligible for award. The rule in those cases does not apply here because there was no explicit indication from the agency, in the solicitation or otherwise, that it had considered Claraview's OCI and nonetheless considered the firm to be eligible for award.

potential conflict exists and in developing an appropriate way to resolve it. Id. at § 9.505. The responsibility for determining whether an actual or apparent conflict of interest will arise, and to what extent the firm should be excluded from the competition, rests with the contracting agency. Aetna Gov't Health Plans, Inc.; Foundation Health Fed. Servs., Inc., B-254397.15 et al., July 27, 1995, 95-2 CPD ¶ 129 at 12.

An impaired objectivity OCI, as addressed in FAR subpart 9.5 and the decisions of our Office, arises where a firm's ability to render impartial advice to the government would be undermined by the firm's competing interests. FAR § 9.505-3; Aetna Gov't Health Plans, Inc.; Foundation Health Fed. Servs., Inc., supra, at 13. The concern in such impaired objectivity situations is that a firm's ability to render impartial advice to the government will be undermined by its relationship to the product or service being evaluated. PURVIS Sys., Inc., B-293807.3, B-293807.4, Aug. 16, 2004, 2004 CPD ¶ 177 at 7.

In reviewing challenges to an agency's conflict of interest determination, the Court of Appeals for the Federal Circuit has mandated application of the "arbitrary and capricious" standard established pursuant to the Administrative Procedures Act. See Axiom Res. Mgmt., Inc. v. United States, 564 F.3d 1374, 1381 (Fed. Cir. 2009). To demonstrate that an agency's determination that there is no OCI is arbitrary and capricious, a protester must identify hard facts that indicate the existence or potential existence of a conflict; mere inference or suspicion of an actual or potential conflict is not enough. See Turner Constr. Co., Inc. v. United States, 645 F.3d 1377, 1387 (Fed. Cir. 2011); PAI Corp. v. United States, 614 F.3d 1347, 1352 (Fed. Cir. 2010). The identification of conflicts of interest are fact-specific inquiries that require the exercise of considerable discretion. Axiom Res. Mgmt., Inc., 564 F.3d at 1382.

In reviewing a contracting officer's conflict of interest determination, this Office employs the Axiom and Turner standard. We review the reasonableness of the contracting officer's investigation and, where an agency has given meaningful consideration to whether a significant conflict of interest exists, we will not substitute our judgment for the agency's, absent clear evidence that the agency's conclusion is unreasonable. See TeleCommunication Sys. Inc., B-404496.3, Oct. 26, 2011, 2011 CPD ¶ 229 at 3-4; PCCP Constructors, JV; Bechtel Infrastructure Corp., B-405036 et al., Aug. 4, 2011, 2011 CPD ¶ 156 at 17.

Teradata, a major software vendor, is the incumbent contractor providing database management software used in DeCA's DMO/EDW/BI program. In 2008, Teradata acquired Claraview. The protester asserts that the award to Claraview presents an OCI where the RFP "calls on Claraview to oversee and evaluate Teradata, to make objective recommendations regarding the use of Teradata and other competitive products, to develop technology roadmaps that necessarily will impact Teradata, to monitor and coordinate resolution of Teradata issues, etc." Protest at 22. As

explained below, we find that the contracting officer gave meaningful consideration to whether the awardee had a significant impaired objectivity OCI, and, given the considerable discretion afforded contracting officers, we have no basis on which to conclude her determination was unreasonable.

The protester supports its OCI argument with numerous references to portions of the performance work statement (PWS) and sample task order. While we have reviewed them all, we limit our discussion to the following, which we consider the most substantive.

Paragraph 6.1 of the PWS reads, in part,

[t]he contractor shall perform analysis of existing data management and business processes that have potential for improvement by utilizing the central data repository technology and recommending improvement of those processes. . . . [T]he contractor shall recommend candidate alternative process methods that have the potential of reducing costs while retaining or improving performance.

PWS, ¶ 6.1 Task 1, Project Management, Configuration Management and Technical Documentation. Similarly, the PWS notes that

[t]he contractor shall perform feasibility studies and analysis of proposed business processes and initiatives as defined in specific Task Orders. The contractor shall. . . recommend candidate process methods and solutions that meet approved requirements and have the potential of reducing costs while retaining or improving performance.

PWS, ¶ 6.7, Task 7, Enterprise Business Analysis.

According to the protester, Claraview's performance of the activities under Task 1 present an impaired objectivity OCI because Claraview would be required to evaluate and analyze Teradata technology, and any such analysis would be impaired given Claraview's affiliation with Teradata. In this regard, Guident selectively notes, from a lengthy requirements description, that the contractor will be required to "perform analysis of existing data management and business processes that have potential for improvement by utilizing the central data repository technology and recommending improvement of those processes" and to "recommend candidate alternative process methods that have the potential of reducing costs while retaining or improving performance." PWS at 69. From these requirements, the protester contends that Claraview will be required to "[a]nalyze Teradata technology to determine if the usage of this technology would improve processes," "[c]reate a Business Case including cost/benefit analysis to show how Teradata technology would improve processes," "[a]nalyze marketplace for non-Teradata central data repository technology that could reduce costs while retaining



or improving performance,” and “[c]reate a Business Case including cost/benefit analysis to show how non-Teradata central data repository technology could reduce costs while retaining or improving performance.” Protester’s Comments on AR, Apr. 6, 2012, at 7.

The agency, however, maintains that the protester misconstrues the requirements associated with Task 1 and that there is no basis for the types of activities now described by Guident in its protest.<sup>5</sup> In this regard, the agency correctly notes that none of the activities identified are specifically enunciated in the PWS. Moreover, the agency explains that the various parts of the EDW work as a integrated system. Thus, when, for example, the PWS asks the contractor to create efficiencies, or evaluate the EDW, DeCA is seeking system-wide efficiencies or an evaluation of how the various components can function together to provide greater value to the agency. Agency Comments, May 7, 2012 at 4-5. In addition, the agency offered the following example of what the PWS means when it requires contractors to “recommend [candidate] alternate methods.” Producing the Store Performance Indicators Report had been a manual process requiring considerable time and effort, so much so that its delayed delivery reduced its usefulness. The agency explains that the contractor used existing DeCA EDW products to fully automate report production. See Agency Comments, May 7, 2012, Affidavit of EDW/BI Program Manager at ¶ 5. According to the EDW/BI program manager, the agency has utilized existing products exclusively the last 4 years, when no new products were recommended or purchased under the DeCA EDW environment support contract. Id. at ¶ 3. Thus, according to the agency, there is simply no basis for the protester’s contention that the contractor will be required to evaluate, analyze, or create business cases with respect to the Teradata piece of the EDW system, or compare it to products that are outside of the EDW environment.

Guident also maintains that Task 3, which pertains to Enterprise Data Management, poses a conflict for Claraview. In this regard, the PWS provides that “[t]he contractor shall facilitate and coordinate development of enterprise data management strategies, governance policies and standards. . . . The contractor shall support development of [Department of Defense Architecture Framework] models and views as required.”<sup>6</sup> PWS, ¶ 6.3, Task 3, Enterprise Data Management. The protester asserts that under this requirement the contractor will be required to analyze the marketplace to determine if other technologies are a better fit for the agency’s needs. The agency disagrees, asserting that, read in context, Task 3 requires contractors to assist DeCA with meeting DoD and agency standards for interoperability and standardization of data. Moreover, the agency

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<sup>5</sup> We also note that Guident’s own proposal does not mention any of the activities which it now proclaims would be necessary during performance of PWS Task 1.

<sup>6</sup> Guident’s protest quoted only the first sentence. Protest at 21.

states unequivocally that hardware and software packages that have already been purchased under separate contracts “include all of the required tools, products and utilities” necessary to “implement the technology and fully utilize all of the inherent capabilities.” Agency Comments, May 7, 2012 at 4. The contracting officer notes that “product recommendations” will be limited to products already purchased and implemented in the DeCA environment, that no contractor has previously been tasked under this delivery order to develop hardware or software requirements or even to evaluate proposals for the purchase of hardware or software, and that the contractor will not be recommending any tools outside the DeCA EDW environment. Agency Comments, May 7, 2012, Affidavit of Contracting Officer at ¶¶ 4-5.

Guident asserts that Claraview’s requirements under Task 6, Design and Development of Enterprise Data Environment, could also give rise to an OCI. Under Task 6, the PWS states that “[t]he contractor shall support the transition from legacy systems to new implementations as required to ensure continued performance of enterprise systems in meeting Agency requirements.” RFP at 74. Guident, however, fails to provide a coherent explanation of how these activities could present a conflict with respect to Claraview and its affiliation with Teradata. The protester appears to suggest that Task 6 could give rise to an OCI because Claraview will need to perform some unspecified “evaluation process,” which implicates Teradata. Protester’s Comments, May 7, 2012, at 6. There is no indication, however, that the selected contractor will have any role in identifying new systems to replace EDW legacy systems. Thus, there does not appear to be any basis in the PWS for the protester’s assertion that Claraview will need to analyze current performance of enterprise systems in meeting Agency Requirements or that it will be making evaluative judgments that would directly affect Teradata’s commercial interests. Id.

Additionally, we note that the agency has effectively mitigated the possibility that Task 6 could give rise to a significant OCI by committing itself to the use of other contracts to procure assistance in updating its hardware and software needs. We note that the agency’s initial delivery order award did not include Task 6, and DeCA has begun the groundwork for those other procurements, having released a request for information seeking commercial sources to provide solutions for modernizing the existing EDW hardware and software platform.<sup>7</sup> See AR, Tab 8, Contracting Officer’s Memo for Record, Feb. 3, 2012 at ¶ 9.b.

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<sup>7</sup> The agency notes that the separate procurements will not entirely supplant task 6; all DoD agencies need to transition legacy source systems to meet new implementation standards, source system updates, and the changing needs of the data warehouse environment. Agency Comments, May 7, 2012 at 6. According to the agency, the data warehouse, with contractor support, is central to such data

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Like the PWS requirements discussed above, the protester also highlights several of tasks under the Sample Task Order to demonstrate that the award to Claraview was improper. Under Sample Task Order 6.5.1, Requirements Analysis, Guident asserts that two of the eleven tasks present a conflict. The first requires the contractor to “Evaluate Commercial-off-the-Shelf (COTS) packages”. RFP at 127. According to Guident, Claraview’s evaluation of any COTS packages will be impaired by its affiliation with Teradata to the extent Claraview is evaluating Teradata COTS packages or those of its direct competitors.

In response, the agency offered the following clarification of this requirement. Specifically, in the unlikely event that existing EDW tools cannot satisfy an agency requirement, the EDW/BI program manager will identify a COTS package for consideration. Agency Comments, May 29, 2012 at 5. Prior to asking the EDW contractor to provide a technical evaluation of the COTS package, the program manager will assess whether such an evaluation would give rise to an OCI. See id. If so, the COTS package would be procured under a separate contract vehicle. See id. Moreover, the agency notes that the evaluation of COTS packages by the EDW contractor has been limited, occurring only once in the last six years. See id. We see no basis on which to challenge the reasonableness of this mitigation effort.

The second challenged task under Sample Task Order 6.5.1 is the requirement that the contractor “develop and maintain Service Level Agreements (SLAs).” RFP at 127. The agency, however, explains that SLAs exist between DeCA organizational units and provide ground rules for the ongoing data exchange between source systems and DeCA’s EDW environment. Agency Comments, May 29, 2012 at 6. DeCA does not have an SLA for Teradata hardware and software; according to the agency, the need for such an SLA is superseded by DeCA’s separate contract with Teradata, as explained below. See Agency Comments, April 29, 2012 at 6. Given that the contemplated agreements are apparently intra-agency, and do not directly implicate any agreement with Teradata, we fail to see how this task could present a conflict.

The Sample Task Order ¶ 6.2.1.1, Task 2, Operational Support and Sustainment, Security/Information Assurance and Disaster Recovery, also provides for the contractor to

[m]onitor the daily operational status of the EDW platforms (test, production and disaster recovery) and coordinate resolution of problems encountered with the vendor, Teradata (proprietary hardware

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transitions. Id. Guident has failed to explain how Claraview’s transition of legacy systems in this regard would be compromised by its affiliation with Teradata.

and software maintenance support covered under separate contract with the Teradata vendor).

RFP at 112-13. The agency explains that DeCA has separate subscription and maintenance contracts for all EDW COTS hardware and software, including Teradata, Informatica, and Business Objects. According to Guident, under the above task, Claraview will be responsible for identifying problems with the Teradata elements within the EDW and overseeing Teradata's efforts to address any problems that may arise. The protester maintains that Claraview would not have "an unbiased view of the best path to take in resolving these issues." Protester's Comments, May 7, 2012, at 9.

In response, the DeCA program manager generally explains that the types of maintenance contracts at issue typically provide support from the original vendor for software issues, such as configuration changes, software bug fixes, access to software service patch releases, and replacement of failed components. Agency Comments, May 29, 2012, Aff. of EDW/BI Program Manager at ¶ 4. The program manager compares these contracts to a homeowner's maintenance insurance policy, in that it provides protection from catastrophic losses in the event of failure. Id. According to the agency, Claraview's roll in this process is to follow the government's direction to ensure that vendors provide the required maintenance services. Id.

With respect to contract implementation, the agency asserts that it has clearly defined rules that articulate the procedures for the contractor to follow when system problems are noted and a resolution within the EDW environment is required. See Agency Comments, April 29, 2012 at 3. DeCA has a system called Remedy to document issues, assign responsibility for issue resolution, and log the status of an issue through to completion. Id. The first step in that process--once an issue has been reported--is that the agency EDW program management office is assigned a ticket. After the program manager approves the resolution of the issue, the agency contacts the appropriate contractor--in this case, Teradata--so that the issue may be resolved. Id. The agency asserts that, given the involvement of the DeCA program manager in issue identification and resolution, Claraview would lack the opportunity to obscure or downplay the seriousness of issues regarding Teradata hardware and software. Id. at 4. Moreover, in the event Claraview fails to address system problems associated with the Teradata hardware or software, the agency notes that it would be "immediately apparent"--the EDW system would not function as required, which would have direct contractual repercussions for Claraview. Supp. Agency Response, May 29, 2012 at 8. In the agency's view this would temper an inclination to "sweep any issues with the Teradata [hardware/software under the carpet", as the protester suggests. Id. Given the nature of Teradata's and Claraview's contracts, as well as the agency's oversight of contract performance,

we have no basis to find unreasonable the agency's conclusion that this portion of the PWS would not give rise to a significant OCI.<sup>8</sup>

In conclusion, the agency has given meaningful consideration to whether the awardee has a significant impaired objectivity OCI and concluded that it does not. In the contracting officer's view, the few discrete tasks identified by the protester do not create a significant impaired objectivity OCI, and we have no basis to conclude that her decision lacks a reasonable basis.

The protest is denied.<sup>9</sup>

Lynn H. Gibson  
General Counsel

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<sup>8</sup> Guident also selectively raises issues with respect to discrete tasks under Sample Task Order ¶ 6.3.1, Data Governance and under ¶ 6.5.2, Data Architecture and Integration. We have reviewed the allegations and conclude that they do not provide a basis to sustain Guident's protest. In this regard, Guident selects two, out of 30 tasks identified for these paragraphs, which, when read in the context of the overall requirements at issue, do not suggest an impaired objectivity OCI with respect to Claraview's performance of the underlying contract. As with the other tasks identified by Guident, in order to suggest that Claraview will be called on to engage in evaluations and judgments that implicate Teradata's commercial interests, Guident makes unreasonably broad, and unsupported, assertions regarding the nature of the activities at issue.

<sup>9</sup> The protester also argues that the agency failed to conduct or document a price realism analysis. The RFP, however, stated that the agency "reserves the right" to conduct a price realism analysis. RFP, Amend. 3 at 23. Because price realism analyses are not required for fixed-price contracts, and because the RFP did not expressly state that the agency would conduct such an analysis, we find no obligation for the agency to have done so. See Bering Straits Logistics Servs., LLC, B-403799, B-403799.3, Dec. 15, 2010, 2011 CPD ¶ 9 at 3. The protester also challenged the agency's analysis of price completeness. As with the allegations concerning the agency's evaluation of technical proposals, the agency substantively addressed the assertion that it had not conducted a completeness analysis, and the protester failed in its comments to rebut the agency's analysis. We thus consider that allegation abandoned. The protester did not assert that the agency failed to evaluate the offerors' cost/price proposals using one or more of the techniques defined in FAR § 15.404.