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**Comptroller General
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**United States Government Accountability Office
Washington, DC 20548**

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Decision

Matter of: CAE USA Inc.

File: B-405659; B-405659.2; B-405659.3

Date: December 2, 2011

Joseph P. Hornyak, Esq., Gregory R. Hallmark, Esq., and Megan Mocho Jeschke, Esq., Holland & Knight LLP, for the protester.

William L. Walsh, Jr., Esq., J. Scott Hommer, III, Esq., George W. Wyatt, IV, Esq., and Brendan M. Lill, Esq., Venable LLP, for Science Applications International Corporation, the intervenor.

Wade L. Brown, Esq., and Sonja C. King, Esq., Department of the Army, for the agency.

Linda C. Glass, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency's evaluation of protester's proposal is denied where the agency's evaluation was reasonable and consistent with the evaluation criteria.
 2. Protest that awardee's proposal should have been rejected for failing to comply with solicitation small business participation goals is denied where agency reasonably concluded that awardee complied with the small business participation goals.
 3. Protest that agency evaluator was biased in favor of awardee and against the protester is denied where the record shows no evidence that the evaluator in question exerted improper influence on behalf of the awardee or against the protester.
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DECISION

CAE USA Inc., of Orlando, Florida, protests the award of a contract to Science Applications International Corporation (SAIC), of San Diego, California, under request for proposals (RFP) No. W900KK-11-R-0002, issued by the Department of the Army for support of the Army's Synthetic Environment Core, Common Virtual Environment Management (SE Core CVEM) program.

We deny the protest.

BACKGROUND

The RFP, issued on October 19, 2010, contemplated the award of an indefinite-delivery/indefinite-quantity contract for a base year and 4 option years for the development and integration of new and existing software and hardware products to expand the SE Core CVEM program. The goal of this program is to facilitate a virtual training environment supporting mission focused unit training that approximates a changing contemporary operational environment. Contracting Officer's Statement at 1.

The RFP provided for award on a best value basis, considering the following factors and subfactors:¹

1	Management
	Integrated Master Plan
	Cost Control
	Risk Management
2	Technical
	System Engineering
	Production
	Development
	In-Phasing
3	Past Performance
4	Small Business Participation
5	Cost/Price

RFP at 164. Offerors were informed that the evaluation factors were listed in descending order of importance, and that the management subfactors were also listed in descending order of importance. Id. at 165. The RFP advised offerors that as proposal ratings tended toward equality, cost/price would become a more determinative factor for award. Id. at 163.

With respect to the management factor, the RFP stated that the agency would evaluate an offeror's management approach to planning, organizing, staffing, controlling, and leading their proposed project team to meet SE Core CVEM program requirements through all phases of development, production, distribution, and support in compliance with contract requirements. Id. at 166. The RFP also stated that the agency would also evaluate the

¹ The RFP was amended a number of times during the procurement. Our citation to the RFP in this decision refers to the conformed copy of the RFP with all amendments.

offeror's approach for controlling the full range of costs, risk management, quality control, and sharing information with the government program office, confederates, and related programs, agencies, and suppliers. Id.

With respect to the small business participation factor, the RFP required that large business offerors submit a small business participation plan and certify that they would perform in a manner that small business participation would be at least 20 percent of the total contract value in each twelve months of performance beginning upon contract award. Id. at 154. In this regard, the RFP required that the small business participation plan include the following information:

L.8.1.1 Type Business of Prime Contractor: Check all applicable boxes

- Large
- Small (also check type of Small Business below)
- Small Non-Disadvantaged Business
- Small Disadvantaged Business
- Woman-Owned Small Business
- HUBZone Small Business
- Veteran Owned Small Business
- Service Disabled Veteran Owned Small Business

L.8.1.2 Total Contract Value: (Include priced options) \$ _____

L.8.1.3 Dollar Value of your participation as a Prime Contractor: \$ _____

L.8.1.4 Dollar Value and Percentage of Total Contract Value of Subcontracts Planned for:

- Large
- Total Small
- Small Non-Disadvantaged
- Small Disadvantaged
- Woman-Owned Small
- HUBZone Small
- Veteran Owned Small
- Service Disabled Veteran Owned Small

Id.

The RFP stated that all percentages for the small business participation goals should be based on the total contract value. RFP at 155. The RFP also informed offerors that they would be evaluated on their demonstrated level of small business commitment and utilization of small businesses in performance of prior contracts. RFP at 171. The RFP listed the small business goals for each category of small business concerns and stated that the following shall evidence small business participation: extent to which such firms are identified in proposals; extent of commitment to use such firms; complexity and variety of the work small firms are to perform; an assessment of the probability that the offeror will satisfy the requirements and achieve the levels of small business participation identified; past

performance of the offeror in complying with requirement; and the extent of participation of such firms in terms of the value of the total acquisition. Id. In this regard, offerors were informed that the agency would evaluate the extent to which an offeror provided detailed explanations/documentation supporting the proposed participation percentages or lack thereof. Id. Offerors were warned that proposals not satisfying the small business participation percentage requirements may be considered “non-responsive.” Id.

With respect to the cost/price factor, the RFP instructed offerors to provide their costs/prices for all contract line item numbers (CLIN) with supporting data.² Id. at 157. The RFP provided for the evaluation of the offerors fixed prices and proposed costs. Id. at 172. In this regard, offerors were informed that the agency would evaluate the realism of their proposed costs. Id. The RFP required that offerors and each cost-type subcontractor demonstrate that they had an accounting system that had been determined by the DCAA to be adequate for determining costs applicable to cost-type contracts. Id. at 158. The RFP also required offerors to inform the agency if an offeror or a subcontractor did not have a DCAA-approved accounting system. Id.

On October 22, 2010, the agency published a revision to its presolicitation notice on the FedBizOpps website, which advised offerors that their proposals should be based on the program of record anticipated funding identified in the notice. Agency Report (AR), Tab 32, Notice, at 2. In this regard, the notice identified for each year of the contract the amount of program of record anticipated funding.

The Army received proposals from CAE and SAIC. The agency established separate evaluation teams for each evaluation factor. See AR, Tab 25, Source Selection Plan, at 2. As is relevant here, the management factor team consisted of four evaluators, including a team leader. Id. The team members individually evaluated proposals within their specifically assigned factor and documented their findings in their individual evaluation worksheets.³ See Contracting Officer’s Statement at 12; see also, e.g., AR, Tabs 30a(1)-30a(4), Individual Evaluation

² The RFP included fixed-price, time and material, and costs reimbursement CLINs.

³ The RFP provided that proposals would be adjectivally rated under the management, technical, and small business participation factors and subfactors as outstanding, highly satisfactory, satisfactory, marginal, or unacceptable. See RFP at 172. A highly satisfactory rating reflected a proposal that demonstrated a sound approach, including “advantageous characteristics of substance” and relatively minor disadvantages. A satisfactory rating reflected a proposal that demonstrated an approach that would meet requirements and included “both advantageous and disadvantageous characteristics, where the advantages are not outweighed by the disadvantages.” Id.

Worksheets for CAE under the Integrated Master Plan Subfactor. Discussions were conducted, oral presentations received, and revised proposals were evaluated by the agency's evaluation team. The agency's final consensus evaluation of the proposals was as follows:

		CAE	SAIC
Management		Satisfactory	Highly Satisfactory
	Integrated Master Plan	Satisfactory	Highly Satisfactory
	Cost Control	Satisfactory	Highly Satisfactory
	Risk Management	Highly Satisfactory	Satisfactory
Technical		Highly Satisfactory	Highly Satisfactory
	System Engineering	Satisfactory	Highly Satisfactory
	Production	Highly Satisfactory	Highly Satisfactory
	Development	Satisfactory	Satisfactory
	In-phasing	Highly Satisfactory	Satisfactory
Past Performance		Low	Low
Small Business Participation		Highly Satisfactory	Outstanding
Evaluated Cost/Price		\$201,338,335	\$173,737,296

AR, Tab 12, Final Proposal Evaluation Report, at 10-11.

The evaluators' adjectival ratings were supported by narrative discussions that identified each offeror's respective strengths under each factor.⁴ For example, the evaluators noted as strengths in CAE's proposal under the integrated master plan subfactor that CAE had proposed a strong team with experience and knowledge in several areas, including the confederate programs, detailed approach to rapidly and efficiently respond to contract changes and the structure of the firm's integrated product team. *Id.* at 14-15. With respect to the cost control subfactor, the evaluators noted as a strength, CAE's proposed [Deleted]. *Id.* at 17. With respect to the risk management subfactor, the evaluators noted as a significant strength CAE's detailed risk management plan. *Id.* at 18.

With respect to the small business participation evaluation factor, under which CAE's proposal was rated highly satisfactory, the evaluators noted as a significant strength that CAE proposed a variety of complex work to be performed by small business concerns. The evaluators also noted the following strengths under this subfactor finding that CAE: proposed a team representing all socioeconomic categories;

⁴ The evaluators did not identify any weaknesses in either offeror's proposal under any of the evaluation factors.

identified corporate commitment to the small business program; demonstrated their large business teammates' understanding and compliance with the small business program; and demonstrated a focused effort to promote, utilize, mentor and assist small business concerns. Id.

SAIC's proposal was evaluated as highly satisfactory overall under the management factor based upon the evaluators' determination that the firm offered significant strengths and numerous other strengths under the integrated master plan and cost control subfactors. Id. at 42-51. For example, the evaluators noted as a significant strength under the integrated master plan subfactor SAIC's program management approach. Id. at 46. The evaluators also noted numerous other strengths under this subfactor, including SAIC's: experience with producing source data; transition activities; proposed interaction between the firm and the government program office; solutions to providing quality products; and innovations for improving productivity and quality of the existing production process. Id. at 46-49.

The evaluators' consensus report was provided to the source selection authority (SSA) who agreed with the evaluators' ratings. AR, Tab 13, Source Selection Decision, at 4. Of particular importance to the SSA was that SAIC's proposal had been higher rated than CAE's under the most important management factor (that is, highly satisfactory as compared to satisfactory). Id. at 4, 32. The SSA also noted that the firms' proposals received the same ratings under the technical and past performance factors, and that SAIC's proposal was rated higher than CAE's under the less important small business participation plan factor. Id. at 32. Noting SAIC's higher ratings and lower evaluated cost/price, the SSA concluded that SAIC's proposal represented the best value to the agency. Id. at 33.

Prior to the award, CAE notified the agency that one of the agency's evaluation team member was contacting CAE's employees about working for SAIC. The Army initiated an investigation under Army Regulation 15-6.⁵ See AR, Tab 14, Army Regulation 15-6 Investigation Report, at 1. On June 23 the Army issued a detailed report in which it concluded that there was insufficient evidence of improper communications between the government employee and CAE employees. Id. at 9. In particular, the Army noted that the evaluator denied the accusations and found no supporting evidence to corroborate CAE's allegations. See id. at 5-6.

Award was made to SAIC, and, following a debriefing, CAE protested to our Office.

⁵ Army Regulation 15-6 establishes an administrative procedure for conducting fact-finding investigations and boards of officers. See Army Regulation 15-6, Oct. 2, 2006.

DISCUSSION

CAE raises numerous challenges to the agency's evaluation and selection decision. Among other things, the protester argues that the agency's assessments of satisfactory ratings for CAE's proposal under the management and technical factors and subfactors were inconsistent with the RFP. The protester also contends that the agency failed to properly evaluate SAIC's failure to satisfy the RFP requirements that offerors team with the original equipment manufacturers (OEMs). The protester argues that the agency relaxed the RFP's small business subcontracting requirement for SAIC. The protester also argues that SAIC's proposal is unacceptable because SAIC's accounting system has not been approved by DCAA.⁶ Lastly, the protester complains that one of the agency's evaluators was biased in favor of SAIC and against CAE.

We have considered all of CAE's arguments in resolving the protest, and find no basis to object to the agency's evaluation or selection decision.

Evaluation CAE's Technical Proposal

CAE complains that Army should have assigned higher adjectival ratings to the protester's proposal under the management factor and subfactors. Specifically, CAE argues that under the RFP's adjectival rating scheme the agency was required to assign a highly satisfactory rating to its proposal under the management factor, because the agency identified no weaknesses or other substantive disadvantages in the firm's proposal. Protester's Comments at 8. CAE argues, in this regard, that its proposal should have been found equal to SAIC's under the two most important evaluation factors. Id. at 9.

In reviewing protests of alleged improper evaluations and source selection decisions, it is not our role to reevaluate submissions; rather, we will examine the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation criteria and applicable procurement laws and regulations. Panacea Consulting, Inc., B-299307.4, B-299308.4, July 27, 2007, 2007 CPD ¶ 141 at 3. In this regard, agencies use of evaluation ratings for offerors' proposals, whether numeric, color, or adjectival, are but guides to, and not substitutes for, intelligent decisionmaking; they do not mandate automatic selection of a particular proposal. See Jacobs COGEMA, LLC, B-290125.2, B-290125.3, Dec. 18, 2002, 2003 CPD ¶ 16 at 31. A protester's mere disagreement with an agency's judgment is not sufficient to establish that an agency acted unreasonably. Entz Aerodyne, Inc., B-293531, Mar. 9, 2004, 2004 CPD ¶ 70 at 3.

⁶ In its comments, the protester withdrew a number of protest grounds.

Here, CAE's arguments provide no basis to object to the agency's evaluation. The agency found that SAIC's proposal had a number of significant strengths and numerous other strengths under the more important integrated master plan and cost control subfactors.⁷ In contrast, CAE's proposal was found to have a number of strengths, but no significant strengths under these subfactors. See AR, Tab 12, Final Proposal Evaluation Report, at 14, 17. The agency's determination that SAIC's proposal was superior to CAE's is based upon this judgment. Although CAE disagrees that SAIC's proposal is superior to CAE's under this factor, this disagreement does not show the agency's judgment is unreasonable. Moreover, the protester's assertion that the agency did not identify any weaknesses with respect to its proposal is misplaced, as it is an agency's qualitative findings in connection with its evaluation of proposals that govern the reasonableness of an agency's assessment of offerors' proposals. Wackenhut Servs., Inc., B-400240, B-400240.2, Sept. 10, 2008, 2008 CPD ¶ 184 at 7. We are not aware of any requirement that an offeror be given the highest available ratings simply because its proposal is not evaluated as having weaknesses. Pannesma Co. Ltd., B-251688, Apr. 19, 1993, 93-1 CPD ¶ 333 at 4.

We also find that, even were we to accept CAE's arguments regarding the technical equality of its proposal with that of SAIC's, the record does not show any reasonable possibility of prejudice to CAE, given SAIC's lower evaluated cost/price. Competitive prejudice is an essential element of every viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have a substantial chance of receiving the award, there is not basis for finding prejudice, and our Office will not sustain the protest. TMM Investments, Ltd., B-402016, Dec. 23, 2009, 2009 CPD ¶ 263 at 4.

Evaluation of SAIC's Subcontractor Utilization

The protester argues that the agency miscalculated SAIC's proposal under the management factor, where SAIC failed to team with OEMs to meet express and "implicit" RFP requirements. Specifically, CAE argues that the RFP provided that under the integrated master plan subfactor the agency would evaluate the offerors' proposed approach to interacting with confederate programs and their key subsystem suppliers. See Protest at 16; see also RFP at 166. The protester maintains that it proposed, unlike SAIC, to include OEMs as teammates and that the agency inappropriately evaluated its large proposed team as a risk element in CAE's proposal.⁸ CAE also argues that SAIC obtained a cost/price advantage by not

⁷ As noted above, the agency evaluated both firms' proposals as having a number of strengths and found no weaknesses or deficiencies.

⁸ Although the size of CAE's proposed team was identified as a concern on some of the evaluators' individual worksheets, see, e.g., AR, Tab 30a(2), Individual

(continued...)

having to account for the costs of confederate program subsystem suppliers' services (that is, OEMs), while CAE did account for those costs by incorporating a number of those parties as subcontractors. Protester's Comments at 10.

The agency responds that the RFP did not require offerors to team or subcontract with OEMs and, in fact, never mentions OEMs. Contracting Officer's Statement at 66. Rather, the agency states that consistent with the RFP criteria it evaluated the offerors' approaches to interacting with the Government Program Office, confederate programs and their key subsystem suppliers, and related programs to ensure communication and understanding of the issues. Id.; see RFP at 166. The Army states that, in this regard, SAIC proposed costs related to its approach to interacting with confederate program subsystem suppliers within integrated product teams with the Government Program Office. Id. at 69.

We find that the agency's evaluation of SAIC's proposal in this area was reasonable and consistent with the RFP requirements. Contrary to the protester's arguments, the RFP did not require offerors to team with OEMs. In this regard, the agency's evaluators found that SAIC's proposed approach to interacting with the Government Program Office and with confederate programs and the key subsystem suppliers was adequate. Specifically, the evaluators noted that SAIC provided for an integrated approach that would ensure effective communication between the government, confederate programs, other programs, and SAIC team participants. See AR, Tab 12, Final Proposal Evaluation Report, at 44. The record also shows that the agency reasonably accounted for the costs associated with SAIC's proposed approach.⁹ Although CAE disagrees with the Army's judgment that SAIC's approach would ensure effective communication and understanding of the issues, this disagreement does not demonstrate that the agency's judgment in this regard was unreasonable.

(...continued)

Evaluation Worksheet for CAE under the Integrated Master Plan Subfactor, at 8, no weakness was identified for CAE's proposal with respect to this concern either on the individual worksheets or in the final consensus evaluation report.

⁹ In its cost realism analysis of SAIC's proposal, the Army determined that additional effort was required to realistically meet the agency's requirements for working with confederate programs and their key subsystem suppliers and upwardly adjusted SAIC's proposed costs in this regard. CAE does not show that the Army's cost realism evaluation of SAIC's proposal was unreasonable.

Evaluation of SAIC's Small Business Participation

CAE complains that SAIC's proposal does not comply with the RFP's requirement that offerors subcontract 20 percent of the total contract value to small businesses and that the agency improperly relaxed this requirement for SAIC. Protester's Comments at 13. The protester argues that SAIC's subcontracting plan shows that SAIC improperly limited its level of small business participation to the solicitation's program of record funds, which is less than the total contract value. Id. at 16; Protester's Supp. Comments at 2. CAE argues that the Army should have rejected SAIC's proposal as nonresponsive. Protester's Comments at 16.

The agency responds that SAIC's small business participation plan provided for subcontracting [Deleted] percent of the total contract value to small businesses and that SAIC's calculation of its small business participation percentage was based upon the projected program of record funding consistent with the agency's October 22 notice. See Supplemental Contracting Officer's Statement at 1-2; see also AR, Tab 32, Notice, at 2-3. The agency also notes that SAIC specifically certified that the firm "would perform in a manner that ensures [small business] participation will be at least [Deleted] percent of the total contract value in each 12 months of performance beginning upon contract award." See SAIC Small Business Participation Volume at IV-2.

We do not agree with CAE that SAIC failed to comply with the solicitation's small business participation requirements. As noted above, SAIC specifically committed itself to subcontracting at least [Deleted] percent of the total contract value to small businesses in each year of the contract. To demonstrate its compliance with this requirement, SAIC identified the percentage of total contract value it would subcontract to various small business type entities and the dollar values associated with these percentages. Consistent with the agency's FedBizOpps solicitation notice, SAIC used the program of record funding to illustrate how it would satisfy these goals. Given the notice's instruction to offerors to base their proposals upon the program of record anticipated funding, see AR, Tab 32, Notice, at 2, we cannot say that this was unreasonable.

We also find reasonable the agency's judgment that SAIC's proposal was outstanding under the small business participation plan factor and that CAE's was highly satisfactory. The RFP stated that an offeror's small business participation plan would be evaluated under six separate criteria, including an offeror's extent of commitment, complexity and variety of work small firms are to perform, and the offeror's past performance in complying with the requirement. Id. The Army found that SAIC demonstrated an excellent approach that would clearly result in the superior attainment of proposed small business goals. See AR, Tab 12, Final Evaluation Report, at 68. SAIC's plan was evaluated as having four significant strengths involving its robust corporate small business development program, its demonstrated corporate commitment, its incentive programs and its numerous

awards for outstanding performance in this area. Id. SAIC's plan was also evaluated as having five strengths, involving its executed teaming agreements, long-term relationships with small business concerns, and its corporate policy that ensures compliance. In contrast, CAE's subcontracting plan was evaluated as having only one significant strength and four strengths.

Evaluation of SAIC's Accounting System

CAE also contends that SAIC's proposal was unacceptable and should have been rejected because SAIC's accounting system had not been approved by DCAA as required by the RFP. Protester's Second Supp. Comments at 13. The protester states that, although DCAA had performed a limited scope survey in 2009 indicating that SAIC's accounting system was acceptable for award, SAIC subsequently and fundamentally changed its accounting system and that DCAA had not yet completed an ongoing audit. Protester's Comments at 16.

As noted above, the RFP required offerors to inform the agency as to whether their accounting systems had been approved by DCAA as adequate for determining costs applicable to the contract. In its proposal, SAIC provided a March 20, 2009, DCAA report, which stated that SAIC's accounting systems had been determined to be adequate for determining costs applicable to cost-type contracts. AR, Tab 33, DCAA Audit Report, at 2. That report specifically noted that SAIC was in the process of changing its accounting system and was performing a time phased implementation of the changeover to the new system by business unit so that both accounting systems were operational. Id. at 3. The report noted that as a result of SAIC's change in accounting systems, DCAA's "audit opinions of [SAIC's] accounting systems are pending and control risk in DCAA audits is assessed at the maximum (increased substantive testing is performed in all audits)." Id.

SAIC also provided a Defense Contract Management Agency (DCMA) report that noted SAIC's completion of its accounting system change and that DCAA had reviewed the SAIC's new system and issued the Statement of Condition and Recommendation on January 21, 2011. See AR, Tab 35, DCMA June 20, 2011 Letter, at 1. DCMA states that based upon their review and in accordance with Defense Federal Acquisition Regulation Supplement Subpart 242.75 (Contractor Accounting Systems and Related Controls), DCMA approved SAIC's accounting system pending DCAA verification of corrective actions implemented by SAIC and DCAA validation of the effectiveness of these corrective actions. Id. at 2.

The SSA in making his source selection decision recognized that SAIC had changed its accounting system. The SSA further recognized that DCAA had performed a limited-scope pre-award system survey on SAIC's new system and that the system had been approved by DCMA pending further audit by DCAA. AR, Source Selection Decision, at 31. In this regard, the SSA recommended that the contracting officer

request that DCAA provide a completion date for a full audit of SAIC's accounting system. Id.

We find that the agency reasonably concluded that SAIC's accounting system was adequate for determining costs in a cost-type contract. The determination regarding the adequacy of an offeror's cost accounting system is a matter of an offeror's responsibility. See McKissack+Delcan JV II, B-401973.2, B-401973.4, Jan. 13, 2010, 2010 CPD ¶ 28 at 6. The determination of a prospective contractor's responsibility rests within the broad discretion of the contracting officer, who, in making that decision, must necessarily rely on his or her business judgment. Id. We find no basis here to question the SSA's judgment.

Biased Evaluator Allegation

The protester argues that one of the evaluators was biased in favor of SAIC and against CAE.¹⁰ Protester's Comments at 1. The protester states that this evaluator, an Army employee, was formerly employed by SAIC and worked in the same office and the same business unit as the SAIC personnel who were responsible for SAIC's effort in this procurement. Protester's Comments at 2. CAE also maintains that this same evaluator was denied a position with CAE and may harbor resentment against CAE. Id. The protester argues that the evaluator's individual evaluation worksheets demonstrates that he expressed the only negative comments about CAE under the management factor and alleges that these comments were the sole justification offered by the agency for not assigning CAE a rating of highly satisfactory. Protester's Comments at 8.

Contracting agencies, as a general matter, are responsible for reviewing potential conflicts of interest posed by relationships between evaluators and offerors in order to ensure impartiality in the evaluation and to preserve the integrity of the procurement process. Laerdal Med. Corp., B-297321, B-297321.2, Dec. 23, 2005, 2006 CPD ¶ 12 at 6-7; DRI/McGraw-Hill, B-261181, B-261181.2, Aug. 21, 1995, 95-2 CPD ¶ 76 at 3. Where, as here, a protester infers that agency officials are biased because of their past experiences or relationships, we focus on whether the individuals involved exerted improper influence in the procurement on behalf of the awardee, or against the protester. See George A. Fuller Co., B-247171.2, May 11, 1992, 92-1 CPD ¶ 433; Advanced Sys. Tech., Inc.; Eng'g and Prof. Servs., Inc., B-241530, B-241530.2, Feb. 12, 1991, 91-1 CPD ¶ 153 (no evidence of bias by evaluation panel member who was formerly employed by the awardee's subcontractor).

¹⁰ The evaluator is the same Army employee that was the subject of the agency's Army Regulation 15-6 investigation based upon allegations made by CAE concerning improper statements made to CAE employees.

The evaluator at issue here was one of four evaluators on the panel evaluating proposals under the management evaluation factor. The record shows that the evaluator was employed by SAIC until October 9, 2009, and that he was employed by the Army on October 13, 2009. Contracting Officer's Statement at 33. In his first year employment with the Army, the evaluator worked in a program office, and was assigned to the SE Core CVEM program beginning in October 2010. The evaluator currently has no direct or indirect financial interest in SAIC, no stock ownership in SAIC, no 401(k) or non-401(k) interest in SAIC, and no family members working for SAIC. Id.

In our view, there is no evidence of bias in the record on the part of the evaluator--either against CAE or for SAIC. Although the evaluator expressed a concern regarding the size of CAE's proposed team in his individual evaluation worksheets, the evaluator did not identify this concern as a weakness or deficiency.¹¹ See AR, Tab 30a(2), Individual Evaluation Worksheet for CAE under the Integrated Master Plan Subfactor, at 8. Also, this concern was not identified in the evaluators' consensus evaluation report, which also did not identify any weaknesses in CAE's proposal. In fact, the evaluator was generally very positive in his evaluation of CAE and assigned strengths to CAE's proposal even in areas other evaluators did not. A protester's claim that contracting officials were motivated by bias or bad faith must be supported by convincing proof; we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Shinwha Elecs., B-290603 et al., Sept. 3, 2002, 2002 CPD ¶ 154 at 5 n.6.

The protest is denied.

Lynn H. Gibson
General Counsel

¹¹ The record shows that the evaluator was not the only one to express concern with the size of CAE's large subcontracting team. See AR, Tab 30a(3), at 10.