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**Comptroller General  
of the United States**

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

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## Decision

**Matter of:** Tele-Consultants, Inc.

**File:** B-408465; B-408465.2; B-408465.3

**Date:** September 27, 2013

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Jeffrey A. Belkin, Esq., and Jessica L. Sharron, Esq., Alston & Bird, LLP, for the protester.

Jessica C. Abrahams, Esq., and John W. Sorrenti, Esq., McKenna Long & Aldridge LLP, for the intervenor.

Richard C. Dale, Esq., Department of the Navy, for the agency.

Cherie J. Owen, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protest that agency miscalculated offerors' technical proposals is denied where record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.
  2. Agency reasonably considered the future successes predicted by protester's commendable past performance of the incumbent contract under the past performance evaluation factor, rather than the technical evaluation factor.
  3. Protest that past performance evaluation should have been more mechanical is denied because the evaluation of past performance should be qualitative and GAO disfavors mechanical computations such as those suggested by the protester.
  4. Protest challenging agency's cost realism evaluation is denied where record establishes that agency's realism determinations were reasonable and well-documented.
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### DECISION

Tele-Consultants, Inc. (TCI), of Chesapeake, Virginia, protests the Department of the Navy's issuance of a task order to BTP Systems, LLC, of Ludlow, Massachusetts, for advanced Navy military satellite communications programs and end-to-end architecture integration and operations for the Naval Undersea Warfare

Center (NUWC), Newport Division's Undersea Warfare Electromagnetic Systems Department, under solicitation No. N00024-12-R-3408.<sup>1</sup> TCI challenges various aspects of the agency's evaluation process, including the evaluation of the technical, past performance, and cost proposals.

We deny the protest.

## BACKGROUND

The Navy issued the solicitation on December 14, 2012, seeking proposals to provide programmatic, technical, and analytical design engineering for all phases of research and development, including pre-planned product improvements, systems engineering and analysis, training, and operation analysis and effectiveness engineering for military satellite communications terminals, antenna systems and applicable baseband equipment, and communications planning tools. AR at 3. The RFP contemplated the award of a cost-plus-fixed-fee contract with a performance period of a six-and-a-half-month base period, two option years, and a final option period of five and a half months. RFP at 36.

The solicitation stated that award would be made to the offeror whose proposal offered the best value to the agency, considering the following three evaluation factors: technical capability, past performance, and cost. RFP at 74-75. The technical capability and past performance factors were weighted equally, and, when combined, were significantly more important than cost. Id. at 75. The technical capability factor had three subfactors: technical approach, personnel management, and small business participation. Id. at 74. The personnel management and small business participation subfactor were weighted equally, and the technical approach subfactor was more important than the personnel management and small business participation subfactors combined. Id. at 75.

With regard to the technical approach subfactor, the RFP required offerors to propose a complete technical approach to performing the required work, including details of how the work would be performed, an appropriate mix of personnel, and a plan for obtaining the required clearances by the time of performance. RFP at 68. As relevant here, section L of the RFP instructed offerors that they were to identify at least one "key person" and provide resumes for anyone identified as key personnel. The RFP did not contain these requirements for non-key personnel;

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<sup>1</sup> The task order was issued under the Navy's SeaPort-e multiple-award indefinite delivery/indefinite quantity (ID/IQ) contract schedule. The evaluated award value of the task order is \$22,135,099. AR, Tab 9, Best Value Recommendation, at 3. As a result, this procurement falls within our jurisdiction to hear protests related to the issuance of task orders under multiple-award ID/IQ contracts valued in excess of \$10 million. 10 U.S.C. § 2304c(e)(1)(B).

rather, the solicitation informed offerors that, even if non-key employees were identified and their resumes submitted, resumes for non-key employees would not be evaluated. RFP at 68. Section L also required offerors' proposals to use labor category titles listed at the NUWC's website, by selecting the labor category and level that best described the individual(s) proposed by offerors. However, the RFP noted that use of these labor categories was for purposes of later Electronic Cost Reporting and Financial Tracking System (eCRAFT) reporting, and that the technical evaluation of the proposal would be made on the merits of the individuals' qualifications and not on a comparison against the labor category description that offerors selected. RFP at 68.

In addition to the evaluation factors and subfactors listed for technical capability, the RFP provided that previously approved Single Process Initiatives (SPI) would be evaluated under the source selection criteria of the RFP, and would be incorporated into the contract upon award. In contrast, with regard to proposed SPI processes, the RFP stated that the agency would evaluate such proposed processes for acceptability, but that the evaluation of proposed SPI processes would not be a part of the award determination. RFP at 73.

With regard to past performance, the RFP stated the agency would consider the relevance of offerors' past performance and would also evaluate how well the offerors performed on the contracts, in order to arrive at a performance confidence assessment for each offeror. The solicitation stated that the agency may contact all or some of each offeror's customers, and that the agency may also consider past performance information obtained from other sources, including federal, state, and local government agencies, Better Business Bureaus, published media and electronic databases. Id. at 74-75.

With regard to the cost proposals, the RFP instructed offerors to provide sufficiently detailed information to allow the contracting officer to determine the cost realism and reasonableness of the proposed costs. RFP at 70. Offerors were also instructed to provide a single summary spreadsheet that supports the total amount of all contract line item numbers and to complete an electronic spreadsheet accessed via a hyperlink in the solicitation. Id. at 70, 71. The electronic Microsoft Excel spreadsheet was pre-populated with the agency's midpoint escalation methodology for use in the cost evaluation. See RFP at 71.

Two offerors, TCI and BTP, submitted proposals by the January 31, 2013 closing date. AR at 7. TCI's proposal was assigned two strengths and zero deficiencies or weaknesses; the proposal earned ratings of good and outstanding under the technical approach and personnel management subfactors, respectively. AR, Tab 9, Best Value Recommendation, at 3-4. One of TCI's strengths was assigned under the personnel management subfactor because the evaluators found that the proposal identified [DELETED] highly qualified key individuals, where only one was required; the evaluators also viewed favorably the team's experience (ranging from

[DELETED] years, with an average experience level of [DELETED] years), both of these features were viewed as relevant to the statement of work's requirements for tasking. AR, Tab 8, Technical Evaluation, at 7. Evaluators also assigned a strength for TCI's reliance on a highly qualified individual to serve as the senior technical representative. The evaluators concluded that this individual had extensive experience in the technical areas described in the statement of work, and that his knowledge and experience would save time, money, and resources, while minimizing government oversight. Id. at 8. Overall, the evaluation team found that TCI's proposal provided a plausible, detailed, and comprehensive technical approach. Id. at 4.

BTP's proposal earned three strengths, zero deficiencies, and one weakness. AR, Tab 9, Best Value Recommendation, at 3-4. BTP's proposal was assigned a strength for proposing a previously-approved SPI, referred to as the "[DELETED]" Supp. AR, Tab 8, Technical Evaluation Report, at 3. Specifically, the evaluators noted the following:

Team BTP Systems proposed to use a very deliberate "[DELETED]," which is consistent with best systems engineering practices, consisting of [DELETED]. The proposal cited numerous pertinent and recent examples of their performance of this type of work (e.g. [DELETED]), all directly applicable to tasking required by the statement of work. The [DELETED] will provide direct benefit to NUWC and the Navy through cost savings.

Supp. AR, Tab 8, Technical Evaluation Report, at 3; see AR, Tab 9, Best Value Recommendation, at 4.

BTP's proposal also earned a strength under the personnel management factor for proposing [DELETED] highly qualified key personnel with experience ranging from [DELETED] years. AR, Tab 9, Best Value Recommendation, at 4. BTP's proposal was also assigned a strength for proposing a senior technical representative with "vast and highly relevant experience." AR, Tab 9, Best Value Recommendation, at 4. After reviewing the evaluated technical strengths and weaknesses of each proposal, the agency concluded that the proposals were essentially equal under the technical capability factor and under the past performance factor. AR, Tab 10, Source Selection Decision Memorandum, at 2; AR, Tab 10, Source Selection Decision Memorandum, at 2.

With regard to the cost factor, the agency determined that the offerors' costs were as follows:

|            | <b>Proposed Cost</b> | <b>Evaluated Cost</b> |
|------------|----------------------|-----------------------|
| TCI        | \$24,915,526         | \$25,861,537          |
| BTP        | \$21,476,788         | \$22,135,099          |
| Difference | \$ 3,438,738         | \$ 3,726,438          |

AR at 9; AR, Tab 9, Best Value Recommendation, at 3.

In evaluating TCI's cost proposal, the agency noted that, because TCI was the incumbent, its proposed labor rates were based on the actual rates of its employees. AR, Tab 7, TCI Cost Realism Analysis at 4. The agency verified the rates using the firm's payroll journals and also compared the rates to those proposed by other contractors in the same or similar labor categories. Id. Although the agency found that, in some instances, TCI's labor rates exceeded the rates of other contractors, TCI's higher proposed rates were used to calculate the firm's evaluated cost because the rates were based on the actual salaries of the employees concerned. Id. at 6.

In evaluating BTP's cost proposal, the Navy compared each of BTP's rates to the rates proposed by three other contractors. Supp. AR, Tab 6, BTP Cost Realism Analysis, at 4. The agency found that all of BTP's proposed labor rates fell squarely within the rates proposed by other contractors, with 2 exceptions. First, the agency found that the \$[DELETED] rate proposed for the category of Program/Project Manager III did not match BTP's payroll journal rate of \$[DELETED]. Therefore, the agency used the higher rate of \$[DELETED] in computing BTP's evaluated cost. Second, the agency noted that the proposed rate for the category of Logistician I was \$[DELETED], while the rates proposed by other contractors for this category ranged from \$[DELETED] to \$[DELETED]. Nonetheless, since BTP's proposed rate was only slightly below the other competitive rates, the agency used BTP's proposed rate in its cost evaluation. The cost evaluation report also stated that, where Service Contract Act labor categories were proposed, the agency compared BTP's rates to the applicable wage determination and found that all the rates met or exceeded the minimum wage requirements. Supp. AR, Tab 6, BTP Cost Realism Analysis, at 4.

Further, the Navy increased both offerors' proposed costs using its midpoint escalation methodology, despite the fact that both TCI and BTP used single-point labor escalation methodologies in their proposals. AR, Tab 7, TCI Cost Realism Analysis at 6-7; Supp. AR, Tab 6, BTP Cost Realism Analysis, at 5.

Because the proposals submitted by BTP and TCI were evaluated to be equal under the technical and past performance evaluation factors, cost was the determining factor. AR, Tab 10, Source Selection Decision Memorandum, at 2. BTP's proposal was selected for award based on its final evaluated cost of \$22,135,099 versus TCI's final evaluated cost of \$25,861,537. This protest followed.

## DISCUSSION

TCI challenges various aspects of the agency's evaluation of technical capability, past performance, and cost. For example, TCI argues that: (1) the agency assigned too many strengths to BTP's proposal and not enough strengths to its own proposal; (2) the agency improperly evaluated the two offerors' past performance as equivalent; and (3) BTP's evaluated price should have been higher, and TCI's evaluated price lower, than the agency concluded. As discussed below, we deny the protests.<sup>2</sup>

### TCI's Technical Proposal

First, TCI contends that the agency failed to evaluate its non-key personnel in accordance with the solicitation. Supp. Protest at 17-19. Specifically, TCI argues that the solicitation required offerors to identify each individual who would perform under the contract--regardless of whether they were identified as key personnel--and required the agency to evaluate the individual qualifications of each proposed employee. Protester's Comments at 10-15. TCI contends that, had it known that the agency would not evaluate the individual qualifications of non-key personnel, it would have been able to propose lower-cost general rates, rather than the specific rates it currently pays to incumbent personnel.<sup>3</sup> Protester's Comments at 15-16.

The evaluation of technical proposals is a matter within the agency's discretion, since the agency is responsible for defining its needs and for identifying the best methods for accommodating those needs. U.S. Textiles, Inc., B-289685.3, Dec. 19, 2002, 2002 CPD ¶ 218 at 2. In this regard, our Office will not reevaluate technical proposals; rather, we will review a challenge to an agency's evaluation to determine whether the agency acted reasonably and in accord with the solicitation's evaluation criteria and applicable procurement statutes and regulations. Ahtna Facility Servs., Inc., B-404913, B-404913.2, June 30, 2011, 2011 CPD ¶ 134 at 7. A protester's mere disagreement with the agency's judgments does not render the evaluation unreasonable. SDS Int'l, Inc., B-291183.4, B-291183.5, Apr. 28, 2003, 2003 CPD ¶ 127 at 6.

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<sup>2</sup> In its various protest submissions, TCI has raised arguments in addition to, or that are variations of, those specifically discussed below. We have considered all of TCI's various arguments and allegations and find no basis to sustain its protests.

<sup>3</sup> In this regard, TCI explains that it understood the RFP to require that offerors identify and submit payroll records for each individual (including non-key employees) who would perform under the contract. Protester's Comments at 10.

As set forth above, the RFP's instructions to offerors (section L) required that proposals identify at least one "key person" and provide a resume for anyone identified as key. The RFP contained no such requirement for non-key personnel. In fact, the solicitation expressly advised that resumes for non-key personnel would not be evaluated. RFP at 68. To the extent the protester interpreted this solicitation to require that offerors identify--and the agency evaluate--non-key personnel, the protester's interpretation creates a patent ambiguity in the terms of the solicitation that should have been protested prior to the closing time for receipt of proposals.<sup>4</sup>

TCI also contends that the agency failed to assign strengths to the firm's technical proposal for instances in which the firm's past performance and unique qualifications as the incumbent showed that it would successfully perform technical tasks. Second Supp. Protest at 11; Protester's Supp. Comments at 4. For example, TCI points out that its proposal stated that "[b]ecause of [TCI's] direct support at each of the NUWC Code 34 communications facilities -- coupled with our Fleet presence in and out of CONUS -- **Team TCI brings valuable real-world operational experience to the table.**" Protester's Supp. Comments at 5 (emphasis in original) (quoting TCI Technical Proposal at 1). Therefore, TCI contends that its proposal merited additional strengths under the technical capability evaluation factor.

Where an RFP lists a number of evaluation factors of stated importance, a single factor cannot be accorded more than the weight prescribed in the RFP's evaluation methodology by the repeated consideration of that factor, *i.e.*, it is improper to double- or triple-count the importance of a single listed factor. Wilcox Electric, Inc., B-270097, Jan. 11, 1996, 96-1 CPD ¶ 82 at 5; J.A. Jones Management Servs., Inc., B-254941.2, Mar. 16, 1994, 94-1 CPD ¶ 244 at 6.

The solicitation here informed offerors that the past performance factor would consider their ability to handle the scope and breadth of the work. RFP at 73. In contrast, as noted above, the technical capability factor was to evaluate the offeror's technical approach, personnel management, and small business participation. RFP at 74. While we agree that successful past performance can be an indicator of an offeror's ability to perform in the future, *see* FAR § 15.305(a)(2), the RFP here did

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<sup>4</sup> The protester's argument relies on instructions located on the same page as the statement that resumes for non-key personnel would not be evaluated. RFP at 68. These instructions state that "[t]echnical evaluation of the proposal will be made on the merits of the individuals' qualifications and not on a comparison against the Labor Category description." *Id.* We see no reasonable basis for the protester's alleged conclusion that this language reversed--or gave a different meaning to--the language advising that the agency would not evaluate the resumes for non-key personnel. Moreover, as stated above, if this interpretation were reasonable, the patent ambiguity created could not be more clear.

not require that the agency give technical credit for successful past performance. Consistent with the solicitation's stated scheme, the agency gave TCI full credit for its successful past performance under the past performance evaluation factor, rather than under the technical capability factor. Therefore, we find no basis to sustain this protest ground.

#### BTP's Technical Proposal

The protester also challenges the agency's assignment of a strength to BTP's proposal for its use of Single Process Initiatives (SPI), arguing that the solicitation barred consideration of SPI. Second Supp. Protest at 10; Protester's Supp. Comments at 5-7. Specifically, TCI contends that the solicitation advised that previously approved Single Process Initiatives (SPI) would be evaluated under the source selection criteria of the RFP, but proposed SPI would be evaluated for acceptability only and would not be considered in making award. RFP at 73. The protester argues that the solicitation's bar on consideration of "proposed" SPI should be interpreted to mean any SPI identified in an offeror's proposal. We disagree.

The RFP made a distinction between SPI that had been previously approved and SPI that were merely proposed but had not yet been approved. The former were to be evaluated under the solicitation's source selection criteria and incorporated in the contract upon award, while the latter would be evaluated for acceptability only, and would not be considered in making award. Since the awardee's SPI was previously approved, the agency properly considered it in the evaluation and source selection decision.

TCI also argues that even if the RFP did not expressly preclude the consideration of SPI processes, the agency's decision to award a strength on the basis of BTP's [DELETED] was unreasonable because the process is not relevant to the requirements of the solicitation. Second Supp. Protest at 11. However, as discussed below, our review of the record indicates that the evaluators' assignment of a strength here was reasonable.

In its proposal, BTP explained that: [DELETED]. Supp. AR, Tab 19, BTP Technical Proposal Excerpts, at 3.

In its evaluation, the agency concluded that BTP had demonstrated how the process was relevant by citing numerous examples of recent work using the [DELETED] that was applicable to the tasks required under the solicitation. Supp. AR, Tab 19, BTP Technical Proposal Excerpts, at 3. In addition, the evaluators found that BTP's [DELETED] was consistent with best practices for systems engineering and would provide a direct benefit to the agency in the form of cost savings. Given the agency's thorough explanation of why it considered the [DELETED] to offer a direct benefit in this procurement, we find that the agency



reasonably considered BTP's [DELETED] to be a strength. Therefore, this protest ground is denied.

#### Past Performance

TCI also challenges numerous aspects of the agency's past performance evaluation, including the assignment of a substantial confidence rating for BTP's past performance.<sup>5</sup> In this regard, TCI contends that the agency improperly considered the past performance of BTP's subcontractors in evaluating BTP's past performance. Protester's Supp. Comments at 8. TCI's argument in this area is, in essence, that since the RFP anticipated a review of the "offeror's" past performance, RFP at 76, including the past performance of proposed subcontractors was barred. We disagree.

As an initial matter, the RFP here expressly required offerors to submit past performance information for themselves and for any subcontractors performing more than 25% of the level of effort. RFP at 70. In addition, we see no support for TCI's contention that the use of the term "offerors" with regard to past performance was meant to preclude consideration of subcontractor performance information.

Moreover, where the solicitation does not expressly prohibit its consideration, we have routinely held that the experience of a subcontractor proposed to do work that is evaluated under a solicitation properly may be considered in determining whether an offeror meets experience or past performance requirements. Advanced Env'tl. Solutions, Inc., B-401654, Oct. 27, 2009, 2010 CPD ¶ 7 at 5; Indtai Inc., B-298432.3, Jan. 17, 2007, 2007 CPD ¶ 13 at 3; Roca Mgmt. Educ. & Training, Inc., B-293067, Jan. 15, 2004, 2004 CPD ¶ 28 at 5; The Paintworks, Inc., B-292982,

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<sup>5</sup> TCI also challenges the agency's determination that BTP's "FA8250" contract represented a somewhat relevant contract. Protester's Supp. Comments at 9. We find the agency's judgment in this regard to be reasonable. Specifically, the challenged contract involved a complete redesign of a legacy Milstar Conscan Drive Assembly, which provides conical scan tracking for ground and airborne Milstar extremely high frequency command post antennas. According to BTP's proposal, the assembly was designed to withstand environmental conditions similar to ones that will be present under this procurement, including shock, vibe, and thermal effects. Supp. AR, Tab 19, BTP Proposal Excerpts, at 6. Further, the firm's proposal noted that its performance under the FA8250 contract followed the firm's [DELETED] process, which will also be used in performance of the contract at issue here. We see nothing unreasonable about the agency's exercise of judgment in this area.

B-292982.2, Dec. 23, 2003, 2003 CPD ¶ 234 at 3 (citing FAR §15.305(a)(2)(iii)). This protest ground is denied.<sup>6</sup>

The protester also contends that BTP could not reasonably have been assigned the same past performance adjectival rating as TCI. Second Supp. Protest at 21-24. Specifically, TCI offers a mechanical analysis of the percentage of past performance references considered to be very relevant, relevant, or somewhat relevant, then computes the percentage of adjectival ratings of exceptional, very good, and satisfactory. Protester's Supp. Comments at 9-10. TCI then converts these percentages into academic letter grades, to argue that the agency's evaluation was unreasonable.<sup>7</sup>

We find that TCI's alternative analysis provides no basis to sustain this protest. As our decisions make clear, overly mechanical analyses or those based on mathematical computations of scores are disfavored. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 11. The protester's mathematical computations and subsequent conversion of scores to letter grades were not anticipated by the solicitation here and we see no basis to substitute TCI's analysis for the agency's judgments.

Finally, TCI contends that the agency's past performance evaluation was flawed because the agency failed to seek information from all of the outside sources identified in the solicitation. Protester's Supp. Comments at 12. Specifically, the protester notes that the RFP states that "[p]ast performance information shall be obtained from any other sources available to the Government," including the Past Performance Information Retrieval System (PPIRS), the Federal Awardee Performance and Integrity Information System (FAPIS), the Electronic Subcontract Reporting System (eSRS), or other databases; interviews with Program Managers, Contracting Officers, and Fee Determining Officials; and the Defense Contract Management Agency. RFP at 77. Because this clause uses the term "shall," the protester contends that the agency was required to obtain available information from all of the sources listed. Protester's Supp. Comments at 12. The agency, on

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<sup>6</sup> In its initial protest, TCI claimed that the agency failed to properly consider each of its three past performance references and instead combined the three references into one. Protest at 22. The agency report addressed these arguments in detail and provided supporting documentation for the agency's position. In its comments on the agency report, TCI acknowledged that the agency "gave full consideration to all three of TCI's past performance references." Protester's Comments at 16. Given the protester's concession, we need not address this issue further.

<sup>7</sup> For example, with regard to one of the awardee's past performance references, TCI asserts that "BTP's N401 [c]ontract received eleven Cs and four Bs, while TCI received straight As." Id. at 11.

the other hand, notes that another provision of section M stated that the government “may” consider past performance information obtained from outside sources. See RFP at 75. The Navy further argues that TCI’s interpretation of the solicitation would be overly burdensome and unreasonable.

Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions. Alluviam LLC, B-297280, Dec. 15, 2005, 2005 CPD ¶ 223 at 2. An ambiguity exists if a specification is susceptible to more than one reasonable interpretation that is consistent with the solicitation, when read as a whole. Poly-Pacific Techs., Inc., B-293925.3, May 16, 2005, 2005 CPD ¶ 100 at 3. A patent ambiguity exists where the solicitation contains an obvious, gross, or glaring error, for example, where solicitation provisions appear inconsistent on their face. Where a patent ambiguity is not challenged prior to submission of proposals, we will dismiss as untimely any subsequent protest assertion that is based on one of the alternative interpretations as the only permissible interpretation. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (2013); U.S. Facilities, Inc., B-293029, B-293029.2, Jan. 16, 2004, 2004 CPD ¶ 17 at 10.

Here, we need not resolve whether the protester’s reading of the solicitation is a reasonable one because, even if the provisions were susceptible to more than one reasonable interpretation, the ambiguity was patent. Specifically, one provision of section M stated that the agency “may” consider outside past performance information, while the other provision directed that past performance “shall” be obtained from certain outside sources. Since the Navy’s interpretation is equally as reasonable as TCI’s, and since TCI failed to raise this matter prior to the receipt of proposals, we see no basis to conclude that TCI has been treated unfairly, or that the evaluation was unreasonable.<sup>8</sup>

#### Evaluation of BTP’s Cost Proposal

TCI also raises several challenges to the agency’s cost evaluation. For example, the protester contends that the agency should have compared BTP’s average proposed labor rates to the average labor rates on another contract (the N401 contract) that BTP is currently performing for the Navy. Second Supp. Protest at 26. TCI further notes that the Navy found the N401 contract to be very relevant in past performance. TCI argues that, had the agency engaged in this comparison

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<sup>8</sup> We further note that TCI failed to demonstrate that it was prejudiced by the agency’s failure to obtain past performance information from all of the outside sources listed. TCI received the highest available past performance rating, notwithstanding the agency’s failure to obtain information from all of the listed sources. TCI therefore did not suffer any competitive harm as a result of the agency’s failure to contact all of these sources.

of labor rates, it would have found that the firm's proposed labor rates here were significantly lower than its rates under the N401 contract. Id. Therefore, TCI contends that the agency's cost realism evaluation of BTP's proposal was unreasonable. Protester's Second Supp. Comments at 14.

When an agency evaluates a proposal for the award of a cost-reimbursement contract, an offeror's proposed estimated costs are not dispositive because, regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. American Tech. Servs., Inc., B-407168, B-407168.2, Nov. 21, 2012, 2012 CPD ¶ 344 at 5; DPK Consulting, B-404042, B-404042.2, Dec. 29, 2010, 2011 CPD ¶ 12 at 11; FAR § 15.404-1(d). Consequently, the agency must perform a cost realism analysis to determine the extent to which an offeror's proposed costs are realistic for the work to be performed. Wyle Laboratories, Inc., B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 8. An agency is not required to conduct an in-depth cost analysis, or to verify each and every item in assessing cost realism; rather, the evaluation requires the exercise of informed judgment by the contracting agency. Wyle Laboratories, Inc., supra. Further, an agency's cost realism analysis need not achieve scientific certainty; rather, the methodology employed must be reasonably adequate and provide some measure of confidence that the proposed costs are reasonable and realistic in view of other cost information reasonably available to the agency as of the time of its evaluation. See SGT, Inc., B-294722.4, July 28, 2005, 2005 CPD ¶ 151 at 7. We review an agency's judgment in this area to see that the agency's cost realism evaluation was reasonably based and not arbitrary. Hanford Env'tl. Health Found., B-292858.2, B-292858.5, Apr. 7, 2004, 2004 CPD ¶ 164 at 8.

Our review of the record shows that, while the agency did not compare BTP's average labor rates to the N401 contract, it did compare them to the average labor rates under the N402 contract, the predecessor contract to the requirement here. AR, Tab 11, Business Clearance Memorandum at 14. Specifically, while the agency found that BTP's average proposed rates were lower than those of the predecessor contract, it also noted the following:

The marketplace and level of competition has changed in comparison to the predecessor as defense budgets are being reduced and contractors are becoming more competitive and offering lower proposed costs. As a result of these market factors, the prime did not [DELETED] . . . . As a result[,] this decrease of the average labor rate is considered fair and reasonable.

Id.

We find the agency's decision to compare BTP's labor rates to the average labor rates under the predecessor contract, rather than to the average labor rates of the less relevant N401 contract, to be reasonable. Although the N401 contract was

found to be very relevant for purposes of past performance, we find no error in the agency concluding, for the purposes of the cost evaluation, that the more relevant predecessor contract was a better predictor of realistic rates.

In addition, we find that the record reflects that the agency performed a comprehensive cost realism analysis of BTP's proposal by comparing the labor rates for each labor category proposed by BTP to the rates proposed by other contractors for the same or similar labor categories. Based on our review of the record, we find that the agency cost evaluation of BTP's proposal was reasonable.<sup>9</sup>

#### Evaluation of TCI's Cost Proposal

TCI also challenges the agency's evaluation of its own cost proposal, and contends that the "delta between TCI and BTP's costs should have been significantly smaller." Protester's Supp. Comments at 3. In other words, TCI contends that if the agency's cost evaluation had not been flawed, TCI's proposal would carry a smaller price premium.

Here, because BTP's and TCI's proposals were reasonably considered to be equal under the technical and past performance factors,<sup>10</sup> cost was the determining factor. Even if TCI's allegations were true and the agency's upward adjustment of TCI's costs was improper, TCI's proposed cost of \$24,915,526 would still be higher than BTP's evaluated cost of \$22,135,099. AR at 9. As a result, TCI would still not be in

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<sup>9</sup> In its second supplemental protest, TCI claimed that BTP's proposal was ineligible for award because it proposed labor rates [DELETED]. TCI argued that BTP failed to provide adequate justification for these rates, and that the agency improperly approved them. The supplemental agency report addressed these arguments in detail and provided supporting documentation. In its comments on the supplemental agency report, TCI failed to substantively respond to the agency's arguments in this regard. Therefore, this protest ground is deemed to have been abandoned. See Calnet, Inc., B-402558.2 et al., June 3, 2010, 2010 CPD ¶ 130 at 3. In any event, even if this protest ground was not abandoned, we find no merit to the claim.

<sup>10</sup> Given that we find no merit to the protester's challenges to the evaluation of the technical and past performance factors, we find that the agency reasonably determined that the two proposals were equal under these factors.

line for award. Therefore, we find that TCI has failed to show that it was prejudiced by the alleged flaws in the agency's evaluation.<sup>11</sup>

The protest is denied.

Susan A. Poling  
General Counsel

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<sup>11</sup> We have nevertheless reviewed the protester's challenges to the cost evaluation of TCI's proposal and find that none of them have merit. For example, TCI argues that the agency incorrectly used a midpoint escalation methodology in the cost evaluation. Supp. Protest at 14. As set forth above, the electronic spreadsheet that was accessed via a hyperlink in the solicitation put offerors on notice of the agency's midpoint escalation methodology prior to proposal submissions. To the extent that TCI objected to the agency's plan to use this methodology in the evaluation of cost, such a protest should have been filed prior to the time for receipt of proposals. Further, the agency argues, and we agree, that while TCI proposes that the agency should have calculated a single point escalation, which always produces a slightly lower direct labor amount, the protester has failed to show that the agency's selected methodology was unreasonable. Moreover, the record shows that both TCI and BTP used single-point labor escalation in their proposals and the Navy applied its midpoint escalation methodology to both proposals. AR, Tab 7, TCI Cost Realism Analysis at 6-7; Supp. AR, Tab 6, BTP Cost Realism Analysis, at 5. We find no basis to sustain any of TCI's challenges to the cost evaluation.