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Decision

Matter of: DynCorp International LLC; Fluor SOSi Diplomatic Support Services, LLC; Kellogg Brown & Root Services, Inc.

File: B-408554.5; B-408554.6; B-408554.7; B-408554.8; B-408554.9; B-408554.10

Date: December 9, 2013

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DIGEST

1. Protests challenging an agency's determination that the awardee's low price was realistic are denied, where the agency found that the awardee's low price reflected the firm's acceptable technical approach.
2. Protests challenging the agency's evaluation of the protesters' proposals are denied where record shows that the evaluation was reasonable and consistent with solicitation.

DECISION

DynCorp International LLC, of Fort Worth, Texas, Fluor SOSi Diplomatic Support Services, LLC, of Greenville, South Carolina, and Kellogg Brown & Root Services, Inc. (KBR), of Houston, Texas, protest the award of a contract to PAE Government

Services, Inc., of Arlington, Virginia, under request for proposals (RFP) No. SAQMMA-12-R-0130, issued by the Department of State (DOS) for life support and logistics services, called Baghdad Life Support Services (BLiSS), in Iraq. The protesters challenge the agency's evaluation of the proposals and selection decision.

We deny the protests.

BACKGROUND

The RFP provided for the award of a single indefinite-delivery/indefinite-quantity contract under which fixed-price, cost reimbursement, and other task orders would be issued for various life support and logistics services at various locations in Iraq, including the embassy compound and consulate, for a base year and four option years. RFP § B.2. The RFP stated that the task orders issued over the five year performance period would have a minimum value of \$100 thousand and a maximum value of \$1 billion. RFP § B.3.

A detailed statement of work (SOW) was provided that described the required services. Among other things, the contractor would provide services supporting food procurement, preparation, and serving; fuel procurement and delivery; postal support; solid waste management; and fire protection.¹ RFP § C.1. Offerors were informed that a "normal work week varies by site and individual service sector," and that contractors "living off site will likely have different normal work week hours versus critical service personnel living on site." *Id.* § C.1.C. The SOW also provided that "[s]ervice hours of operation (e.g. Fire Protection versus Postal Operations) will likely determine different normal work weeks for contractor employees." *Id.* Offerors were also informed that the contractor must comply with U.S. and Iraqi laws and regulations, and comply with all local labor laws, regulations, customs and practices. RFP §§ C.1.C; H.48.

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

¹ The services being procured here are currently provided under several different contracts, including the U.S. Army Material Command's Logistics Civil Augmentation Program (LOGCAP) IV contracts. Contracting Officer's (CO) Statement at 2.

Technical Approach to BLiSS (All Sites)	
	Sample Staffing Plan
	Sample Transition Plan
	Sample Food Operations Plan
	Sample Fuel Operations Plan
Technical Approach to Program Management Office (PMO)	
	Key Personnel
	Sample Program Management Plan
	Sample Cost Control Plan
	Sample Quality Control Plan
Relevant Experience	
Past Performance	
Price	

RFP § M.4. The RFP provided that the non-price factors were stated in descending order of importance, and, when combined, were significantly more important than price.² The subfactors were stated to be of equal importance. Id.

Detailed instructions for the preparation of proposals were provided. Offerors were instructed to submit their proposals in five volumes.³ RFP § L.15. The technical proposal volume was required to include the offeror's approach to several sample task order requests (TOR): food services countrywide (TOR 1); BLiSS services for agency sites in the international zone (IZ), including the embassy compound (TOR 2); BLiSS services for the Baghdad Diplomatic Support Center (TOR 3); BLiSS services for the consulate in Basrah (TOR 4); supplemental staffing and maintenance services (TOR 5); and operation of a PMO that oversees the procurement and provides fuel throughout Iraq (TOR 6).⁴ RFP § L.16.1. A

² The RFP informed offerors that the agency would adjectivally evaluate proposals under the two technical approach factors and subfactors as excellent, satisfactory, marginal, unsatisfactory, or pass/fail. As relevant here, an excellent rating reflected a proposal that exceeded specified requirements in a way that is deemed beneficial to the agency, and a satisfactory rating reflected a proposal that met specified requirements necessary for acceptable contract performance, and where weaknesses, if any, were minor or considered easily correctible and may be offset by strengths. RFP § M.10.2.1.

³ The five volumes were: technical proposal, price proposal, business management proposal, small business subcontracting plan proposal, and slides for the oral technical proposal presentation. RFP § L.15.

⁴ The PMO is responsible for overall contract performance, communication, work order management, and regular interaction with the State Department. RFP § H.63.

statement of objectives (SOO) was provided for each TOR. As relevant here with respect to TOR 1, food services countrywide, offerors were informed that the agency expected the contractor to transition from the current defense facilities model, where food was provided by the Defense Logistics Agency, to a commercial-style cafeteria model. See RFP, exhib. A-1, attach. 1, SOO, Iraq Food Operations and Management.

Offerors were also required to provide a sample staffing plan, a sample transition plan, a sample food operations plan, a sample fuel operations plan, information pertaining to key personnel, a sample program management plan, a sample cost control plan, a sample quality control plan, and information pertaining to the PMO. Id. Specific instructions for preparation of these sample plans were also provided. RFP § L.16.1.3. For example, with respect to the sample staffing plan, offerors were instructed to provide a notional description of their organizational structure, management, and qualified staff required to perform the sample task orders. In this regard, offerors were instructed to begin with a baseline of 25 percent local nationals in their proposed workforce within 6 months of performing the base year. See RFP § L.16.1.3.1. With respect to the sample food plan, offerors were instructed to address how they would accomplish a number of identified objectives, such as the turnover within 180 days from a Defense Logistics Agency's supply chain to contractor supply sources. RFP § L.16.1.3.2. With respect to the sample fuel operations plan, offers were instructed to describe a comprehensive approach to providing fuel, including how the offeror would facilitate communications to speed up fuel operations. In particular, offerors were asked to address their approach to requiring, or reducing the reliance on, diplomatic notes from the United States to the government of Iraq.⁵ RFP § L.16.1.3.3.

Offerors were informed that the agency's technical evaluation would evaluate the degree to which the offeror's proposal addressed the work requirements and objectives in the sample task order requests. The technical evaluation would also evaluate the quality of the various plans and other required information. Specifically with respect to the sample staffing plan, the RFP provided that the agency would evaluate:

the degree to which the Offeror's draft staffing plan adequately describes the organizational structure and the qualified labor mix and number for each separate task requirement, demonstrating how the proposed staffing will be consistent with the proposed technical

⁵ Diplomatic notes are used as a means of correspondence between the United States government and foreign governments. See Department of State Foreign Affairs Manual, vol. 5, handbook 1, Correspondence Handbook, 5 FAH-1 H-610, Using Diplomatic Notes, at 1.

approach. The Government will specifically evaluate the Offeror's proposed approach for recruiting, hiring and training [local nationals], and the extent the Offeror commits to both a short term and long term engagement of a significant number of [local nationals] employees for the purpose of short term and long term performance on this contract (see C.1.C and L.16.1.3.1).

RFP § M.10.1.1.1.

With respect to price, the RFP provided that the agency would evaluate proposed prices for reasonableness and realism. RFP §§ M.5, M.10.3. Offerors were instructed to provide various information, including a pricing narrative and completed tables with fixed prices and supporting cost information. RFP § L.16.2.2. In this regard, the RFP informed offerors that the price evaluation would be based primarily on the prices provided in pricing Table 1, in which offerors would provide their fixed prices (with supporting other direct cost and indirect cost information) for each sample task order. RFP § M.10.3.

The agency received proposals from 8 offerors, including PAE, DynCorp, Fluor, and KBR. Contracting Officer's (CO's) Statement at 13. The proposals of 2 offerors were rejected as noncompliant. The remaining 6 proposals, including those of the awardee and protester, were provided to the agency's technical evaluation panel (TEP) and price evaluation panel (PEP). Id. Following an initial evaluation, all 6 proposals were included the competitive range.

Discussions were conducted, during which the agency identified weaknesses and areas needing clarification in the offerors' respective proposals. As relevant here, with respect to DynCorp's proposal, the contracting officer identified as a weakness in DynCorp's sample staffing plan that the firm's "aggressive" staffing approach concerning local nationals at the Baghdad Diplomatic Support Center failed to address Iraqi Government checkpoint issues that may create delays for local nationals accessing the site. See Agency Report (AR), Tab 17A, DynCorp Discussions, May 15, 2013, attach. A, at 1. The agency also identified as a weakness in DynCorp's sample food operations plan that its approach did "not present a picture of how they will improve the current food operations." Id. at 2. With respect to PAE's proposal, the agency informed PAE that its proposed price for its [DELETED] was "significantly lower" than that of the other offerors, and requested an explanation. AR, Tab 21B, PAE Discussion Letter, May 16, 2013, at 1.

Proposal revisions were received and evaluated. As relevant here, PAE explained the basis of its low proposed price, stating that PAE was [DELETED] to reduce overall personnel costs, housing and travel. PAE also stressed [DELETED] for reducing its fuel costs. See AR, Tab 12, PAE Discussions Response, May 22, 2013, at 4.

The agency decided to establish a second competitive range that included only the proposals of the awardee and protesters. CO's Statement at 16. Discussions were conducted with these firms to address weaknesses or other areas needing clarification. With respect to DynCorp's proposal, the agency informed DynCorp that, under the sample food operations plan, the firm had not sufficiently described its concept or approach to moving away from a defense facilities model. AR, Tab 17D, DynCorp Discussions, June 21, 2013, attach. A, at 3. DynCorp responded by providing its food operations manager's credentials, explaining that the "key" to its approach will be to "educate the consumer to the new concept and methodically make changes as we move to the point-of-sale (POS) model," and providing bullet points with the models' features both before and after the transition. AR, Tab 6, DynCorp Technical Proposal, Letters, June 24, 2013, at 2-3.

With respect to Fluor's proposal, the agency informed the firm that Fluor had not identified its proposed work week hours for American nationals, third country nationals, or local nationals. AR, Tab 15C, Fluor Discussions, June 21, 2013, attach. A, at 3. The agency acknowledged that this information was not specifically required by the RFP, but stated that the lack of this information "precludes the Government from completing a staffing analysis of the Offeror's level of effort associated with its proposal, particularly in the area of food services." Id. Fluor responded by providing its established work week hours, which consisted of, among other things, 48 hours a week for local nationals. AR, Tab 8, Fluor Technical Proposal, Letters, June 24, 2013, at 1.

The second round of proposal revisions were received and evaluated. The agency determined that PAE's proposal was the highest-rated and lowest-priced, and made award to that firm. CO's Statement at 17. DynCorp, Fluor, and KBR protested to our Office, challenging the agency's evaluation of proposals. Prior to submitting its report in response to the protests, the agency informed our Office and the parties that it would take corrective action by evaluating the realism of the competitive range offerors' prices and making a new selection decision. We dismissed the protests as academic. DynCorp Int'l LLC; Kellogg Brown & Root Servs., Inc.; Fluor SOSi Diplomatic Support Servs., LLC, B-408554 et al., August 8, 2013.

Following the agency's corrective action, the parties' proposals were evaluated as follows:

	PAE	DynCorp	Fluor	KBR
BIISS Tech. Approach	Excellent	Satisfactory	Satisfactory	Satisfactory
Staffing Plan	Satisfactory	Excellent	Satisfactory	Satisfactory
Transition Plan	Excellent	Excellent	Excellent	Excellent
Food Operations Plan	Excellent	Satisfactory	Satisfactory	Excellent
Fuel Operations Plan	Excellent	Satisfactory	Satisfactory	Satisfactory
PMO Tech. Approach	Satisfactory	Satisfactory	Satisfactory	Satisfactory
Key Personnel	Excellent	Excellent	Excellent	Excellent
Program Management Plan	Excellent	Excellent	Satisfactory	Satisfactory
Cost Control Plan	Satisfactory	Satisfactory	Excellent	Satisfactory
Quality Control Plan	Satisfactory	Satisfactory	Satisfactory	Satisfactory
Relevant Experience	Confidence	Significant Confidence	Significant Confidence	Significant Confidence
Past Performance	Significant Confidence	Confidence	Significant Confidence	Significant Confidence
OVERALL	Satisfactory	Satisfactory	Satisfactory	Satisfactory
PRICE	\$403.0 million	\$408.6 million	\$422.3 million	\$449.0 million

AR, Tab 29, CO's Best Value Recommendation, Aug. 23, 2013, at 5, 6.

PAE's proposal was again determined to be the highest-rated and the lowest-priced. The agency also determined that all of the offerors' proposed prices, including PAE's, were consistent with their proposed technical approaches, and that there were no material performance risks associated with the proposed pricing. AR, Tab 25, Price Realism Report, at 6. The agency's source selection authority (SSA) confirmed the award to PAE. AR, Tab 31, Post-Corrective Action Selection Decision, at 7.

These protests followed.

DISCUSSION

DynCorp, Fluor, and KBR raise numerous challenges to the agency's price realism of PAE's proposal. DynCorp and KBR also challenge the agency's evaluation of their own technical proposals. We have considered all of the protesters' arguments, although we address only the more significant arguments; we find that none provides a basis to sustain the protests.⁶

Price Realism Evaluation

The protesters variously argue that the agency's price realism evaluation of PAE's proposed low price was unreasonable.

Where a fixed-price contract is contemplated, a proposal's price realism is not ordinarily considered, since a fixed-price contract places the risk and responsibility for contract costs and resulting profit or loss on the contractor. OMV Med., Inc.; Saratoga Med. Ctr., Inc., B-281387 et al., Feb. 3, 1999, 99-1 CPD ¶ 52 at 5. However, an agency may, as here, provide in the solicitation for a price realism analysis for such purposes as measuring a firm's understanding of the solicitation requirements, or to avoid the risk of poor performance from a contractor who is forced to provide goods or services at little or no profit. See STG, Inc., B-405101.3 et al., Jan. 12, 2012, 2012 CPD ¶ 48 at 10. The depth of an agency's price realism is a matter within the sound exercise of the agency's discretion. Grove Resource Solutions, Inc., B-296228, B-296228.2, July 1, 2005, 2005 CPD ¶ 133 at 4-5. In reviewing protests challenging price realism evaluations, our focus is whether the agency acted reasonably and in a manner consistent with the terms of the solicitation. CC Distributions, Inc., B-406450, B-406450.2, May 25, 2012, 2012 CPD ¶ 177 at 7.

Here, the record shows that the agency recognized that PAE's proposed price was lower than that of the other offerors and conducted discussions with PAE to explore the basis of PAE's low price. PAE's explanation of its low price, along with its technical and price proposals, were specifically considered by the agency's price evaluation panel (PEP). The PEP, along with the chairman of the agency's technical evaluation panel, performed a "price realism crosswalk" between the firm's revised technical and price proposals to assess whether an offeror's proposed prices were consistent with its technical approach and whether the prices "gave rise to a concern that the requirements were not understood." AR, Tab 25, Price Realism Report, at 1

⁶ During the course of the protest, the protesters withdrew or abandoned a number of their arguments. For example, the protesters withdrew arguments that the agency misevaluated the offerors' past performance, and that the agency had misevaluated PAE's proposal with regard to that firm's plan for housing employees.

(emphasis in original). The PEP also established a mean price for each sample task order and for other direct costs by averaging the four offerors' respective prices and other direct costs. The PEP used this analysis to examine each of PAE's proposed prices that were lower than approximately 20 percent or more from the mean. Thus, the PEP explored the basis for PAE's lower price under TORs 2 (BLISS services in the IZ); 3 (Baghdad Diplomatic Support Center); 4 (Basrah Consulate); and 6 (PMO).⁷ The PEP found that, for each of these sample task orders, PAE's prices reflected its technical approach and were realistic. See id. at 4-6.

KBR complains that the agency's price realism analysis was flawed because the agency only considered whether PAE's price was consistent with the awardee's technical approach, and did not consider whether PAE's low prices in themselves presented a risk of poor performance. See KBR's Comments at 9. This argument is not supported by the record, which shows that the PEP found that neither PAE's pricing, nor any other offerors' pricing, presented a performance risk. See AR, Tab 25, Price Realism Report, at 5-6. The record further shows that the agency specifically considered and found PAE's approach to be consistent with its acceptable technical approach. There is no basis to conclude from the record that PAE's prices, which reflect its acceptable technical approach, present any performance risk.

DynCorp and KBR complain that PAE's pricing for [DELETED] (under [DELETED]) was unrealistically low, where PAE's price [DELETED] was approximately [DELETED] million while the other offerors' prices were between [DELETED] million and [DELETED] million. KBR's Comments at 10-14; DynCorp's Comments at 30-31. Specifically, the protesters complain that, although PAE's low price for [DELETED] was raised in discussions, the agency did not obtain detailed information explaining PAE's approach that would allow the agency to conclude that PAE's [DELETED] price was realistic. We disagree.

The agency recognized from its discussions with PAE that the awardee proposed to use [DELETED] and that this supported its lower fixed price. The agency also found that PAE's staffing [DELETED] was technically acceptable.⁸ See AR, Tab 25, Price

⁷ The PEP only considered the operation of the [DELETED] in its analysis, as the [DELETED] was within [DELETED] percent of the mean. The cost of [DELETED] represents the vast majority of the offerors' overall prices [DELETED].

⁸ DynCorp appears to argue that PAE's approach [DELETED] does not satisfy the RFP's goal of a baseline of 25 percent local nationals in the firm's proposed staffing. Although DynCorp contends that PAE's proposed [DELETED] staffing does not satisfy this requirement, the protester does not argue that PAE's overall staffing fails to meet this requirement. The RFP does not require that an offeror's staffing for each required service and sample task satisfy the local nationals baseline

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Realism Report, at 6. Specifically, the TEP found that PAE's proposed mix and staffing level for [DELETED] satisfied the RFP's requirements, and the TEP chair, with the PEP, found in their price realism crosswalk that PAE's pricing for [DELETED] was consistent with its technical approach for performing this work. Although the protesters believe that the agency should have performed a more detailed analysis of PAE's price, this disagreement with the agency's price realism evaluation does not show that the agency acted unreasonably.⁹ The agency is accorded discretion to determine the depth of analysis that is required to assess an offeror's understanding of requirements or its performance risk. See Grove Resource Solutions, Inc., supra.

The protesters also complain that the agency in its price realism evaluation did not consider whether PAE's proposed use of local nationals would comply with Iraqi labor laws.¹⁰ In this regard, Fluor complains that the RFP indicated that the agency would evaluate an offeror's compliance with Iraqi law. See Fluor's Comments at 8-12. We find no merit to the protesters' arguments in this regard.

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percentage. Given that the majority of an offeror's staffing is outside [DELETED], DynCorp's complaint provides no basis to question PAE's compliance with the solicitation's 25-percent local nationals staffing goal.

⁹ KBR contends that PAE's lower price for [DELETED] cannot be supported by its proposed use of [DELETED] because KBR proposed to use [DELETED] to perform this work and KBR's proposed price was higher. See KBR's Comments at 12-13. According to KBR, PAE proposed to perform [DELETED] with [DELETED] individuals, consisting of [DELETED] American nationals and [DELETED] third country nationals. KBR, on the other hand, proposed to perform this function with [DELETED] individuals, consisting of [DELETED] American nationals, [DELETED] third country nationals, and [DELETED] local nationals. See id. We do not find KBR's arguments in this regard persuasive. KBR's own arguments indicate that the firms had differing approaches to staffing [DELETED], which would support the agency's judgment regarding the realism of the firms' proposed pricing for this work. In this regard, the record shows that PAE, KBR, DynCorp, and Fluor all proposed different staffing approaches in terms of level and mix to performing [DELETED]. The agency found that the offerors' proposed prices were consistent with their own approaches to performing this work. Although KBR's disagrees with the extent of the agency's price realism evaluation in this regard, it has not shown that the agency acted unreasonably.

¹⁰ The protesters contend that PAE's intention to not comply with Iraqi labor law was evident both from PAE's proposal and from a PAE email sent to KBR explaining PAE's work week and overtime pay approach.

We disagree that the RFP provided for an evaluation of how or whether an offeror's proposed staffing satisfied Iraqi labor laws. General solicitation provisions, such as we have in the RFP here, mandating that a "contractor" comply with federal, state, and local laws do not require that an offeror demonstrate compliance prior to award. Rather compliance is a performance requirement that may be satisfied during contractor performance and does not affect the award decision (except, possibly, as a responsibility matter). See, e.g., Freedom Scientific, Inc., B-401173.3, May 4, 2010, 2010 CPD ¶ 111 at 3; Honolulu Marine, Inc., B-248380, Aug. 6, 1992, 92-2 CPD ¶ 87 at 5. Here, PAE's proposal did not take exception to the requirement to comply with Iraqi labor laws.

Furthermore, the agency in its price realism evaluation recognized PAE's "knowledge of the intricacies and complexities of providing services in Iraq,"¹¹ in concluding that PAE's proposed staffing was realistic. AR, Tab 25, Price Realism Report, at 6. Although the protesters believe that the agency's price realism evaluation should have more specifically examined PAE's proposed compliance with Iraqi labor laws, this disagreement with the depth of the agency's price realism evaluation does not show that the agency's evaluation was unreasonable.

Technical Evaluation

DynCorp raises numerous objections to the State Department's evaluation of its technical proposal.¹² In this regard, DynCorp argues that its proposal should have received higher ratings under the PMO technical approach and BLISS technical approach factors, and under various subfactors. While we have considered all of DynCorp's arguments, we find that none provides a basis for sustaining DynCorp's protest. We address some of DynCorp's more significant arguments below.

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. General Dynamics C4 Systems, Inc., B-406965, B-406965.2, Oct. 9, 2012, 2012 CPD ¶ 285 at 6. A protester's disagreement with an

¹¹ In its technical proposal, PAE identified its and its team members' experience performing work in Iraq. See AR, Tab 12, PAE Technical Proposal, Executive Summary, at 2; Section 11, Relevant Experience.

¹² For example, DynCorp challenges the State Department's assessment of a weakness under the sample food operations plan subfactor for failing to adequately describe a food service management approach to move from the current dining facility model to a cafeteria model. DynCorp Protest at 19. Although DynCorp disagrees with the agency's judgment, it has not shown that the agency acted unreasonably.

agency's judgment is not sufficient to establish that an agency acted unreasonably. JSR, Inc., B-405463, Nov. 8, 2011, 2011 CPD ¶ 265 at 4.

With respect to DynCorp's argument that its proposal should have received an excellent rating under the PMO technical approach factor, DynCorp argues that it has "approximately identified 20 strengths for this factor" and no weaknesses, and thus its proposal satisfied the RFP's requirements for an excellent rating under this factor. DynCorp Comments at 20 (emphasis in original). The evaluation of proposals and assignment of adjectival ratings, however, should generally not be based upon a simple count of strengths and weaknesses, but on a qualitative assessment of the proposals consistent with the evaluation scheme. See Clark/Foulger-Pratt JV, B-406627, B-406627.2, July 23, 2012, 2012 CPD ¶ 213 at 14. In this regard, it is well-established that ratings, be they numerical, adjectival, or color, are merely guides for intelligent decision making in the procurement process. Environmental Restoration, LLC, B-406917, Sept. 28, 2012, 2012 CPD ¶ 266 at 5. Moreover, there is no legal requirement that an agency must award the highest possible rating, or the maximum point score, under an evaluation factor simply because the proposal contains strengths and/or is not evaluated as having any weaknesses. See Applied Tech. Sys., Inc., B-404267, B-404267.2, Jan. 25, 2011, 2011 CPD ¶ 36 at 9.

The agency explains that its adjectival rating of DynCorp's proposal under the PMO technical approach factor reflected the agency's consideration of the various strengths noted in the firm's proposal. In this regard, the TEP rated DynCorp's proposal as excellent under two subfactors (key personnel and sample program management plan), where the TEP found that some of DynCorp's assessed strengths benefitted the government.¹³ For example, under the key personnel subfactor, the TEP recognized that all key personnel exceeded the RFP requirements. The TEP rated DynCorp's proposal as only acceptable under the remaining two subfactors (cost control and quality control plans), where the TEP recognized that DynCorp's proposal had a number of strengths but did not find that the proposal exceeded the RFP's requirements in a way that benefitted the agency.¹⁴ Agency Legal Memorandum at 61.

¹³ We recognize that the record includes contradictory statements from the SSA and the TEP Chair that there were no beneficial strengths identified for any offeror under the key personnel subfactor, where all offerors' proposals were rated as excellent for proposing key personnel that exceeded the RFP requirements. We find that DynCorp is not prejudiced by this inconsistency, given that its proposal was rated excellent under the subfactor and the SSA recognized the strengths that resulted in the excellent rating.

¹⁴ The record shows that the TEP chair initially concluded that DynCorp's ISO 9001 certification was a strength that benefitted the government, but that the TEP in its

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We find that the agency reasonably concluded that DynCorp's proposal, when considered under all four subfactors, did not offer sufficient strengths benefitting the government such that the proposal should have received an excellent rating under the PMO technical approach factor. In this regard, the RFP defined an excellent proposal as one that "exceeds specified requirements in a way that is deemed beneficial to the agency." RFP § M.10.2.1. Although DynCorp believes that its proposal offered sufficient beneficial strengths to warrant a higher rating under this subfactor, this disagreement with the agency's judgment does not show it to be unreasonable.¹⁵

DynCorp also makes numerous arguments objecting to the rating of its proposal under the sample fuel operations plan subfactor. For example, DynCorp complains that the State Department failed to give it sufficient credit for its [DELETED] fuel approach, which eliminates the need for diplomatic notes to obtain fuel within [DELETED] days of award, while assigning PAE a significant strength for also eliminating the need for diplomatic notes. DynCorp Comments at 18.

The record does not demonstrate that DynCorp's and PAE's proposals were evaluated disparately. The State Department assigned a strength to DynCorp's proposal for proposing a [DELETED] approach that eliminates the need for diplomatic notes within [DELETED] days of contract award. AR, Tab 16A, TEP Consensus Report for DynCorp, June 11, 2013, at 35; Tab 28A, TEP Chair Recommendation Memorandum, at 5-6. In contrast, the State Department assigned a significant strength to PAE's proposal for its fuel delivery approach that would not require the use of diplomatic notes from the date of contract award. AR, Tab 20A, TEP Consensus Report for PAE, June 11, 2013, at 40; Tab 28A, TEP Chair Recommendation Memorandum, at 6. Both the TEP Chair and the contracting officer recognized that DynCorp's proposal would eliminate the need for diplomatic notes within [DELETED] days, but concluded that this strength was not as beneficial to the U.S. Government as PAE's proposal, which did not require diplomatic notes to provide fuel at all. AR, Tab 28A, TEP Chair Recommendation Memorandum, at 9; Tab 29, CO Recommendation Memorandum, at 7.

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consensus judgment (with which the SSA concurred) viewed this strength as being insufficient to merit an excellent rating for the quality control plan subfactor.

¹⁵ Similarly, DynCorp objects to its proposal's rating under the BLiSS technical approach to BLiSS evaluation factor and subfactors based on the overall number of strengths and weaknesses assessed in DynCorp's proposal. See DynCorp Protest at 16, 27. Here too, DynCorp's belief that its proposal was entitled to a higher rating merely reflects disagreement with the agency's judgment.

KBR also raises a number of objections to the evaluation of its proposal. First, KBR complains that the agency assessed as a weakness under the sample staffing plan subfactor the large number of local national staff that KBR proposed for the Baghdad Diplomatic Support Center. KBR argues that its proposal--to have local nationals comprise [DELETED] percent of the staff for the Baghdad Diplomatic Support Center--was intended to comply with language in the solicitation encouraging offerors to maximize the use of local national staff. KBR's Protest at 50.

The record does not support KBR's complaint. The agency explains that, contrary to KBR's arguments, it did not categorically refuse to accept KBR's proposal of large numbers of local nationals, but provided KBR with opportunities in two rounds of discussions to explain its proposed large number of local nationals. See Agency Legal Memorandum at 76; see also AR, Tab 19A, KBR Discussions, May 15, 2013, at 2; Tab 19C, KBR Discussions, June 21, 2013, at 3. Although KBR adequately explained its local nationals staffing for some tasks, see Agency Legal Memorandum at 75, KBR did not alleviate the agency's concern with respect to the large percentage of local nationals proposed for the Baghdad Diplomatic Support Center. Specifically, the TEP concluded that such a high percentage of local nationals at the Baghdad Diplomatic Support Center was unreasonable given anticipated delays at Iraqi government checkpoints to access the Center which could result in performance issues. AR, Tab 18A, KBR Final Evaluation, at 19, 21. The agency also notes that this concern with delays at checkpoints was discussed with offerors during the site survey, which was the reason that the Baghdad Diplomatic Support Center was excluded from the RFP's staffing goals for local nationals. Agency Legal Memorandum at 78; see also RFP § C.1.C (the Baghdad Diplomatic Support Center was excluded from the goal of achieving 25 percent local national staffing within 6 months, and 50 percent by the start of the first option year).

KBR responds that the agency failed to consider KBR's limited services implementation plan, which KBR provided in response to the second round of discussions to alleviate the agency's concerns with its proposal of a large number of local nationals at the Baghdad Diplomatic Support Center. The record shows, however, that KBR failed to provide sufficient detail to allow the agency to determine that the risks associated with KBR's approach were alleviated. Specifically, although KBR now states that its limited services implementation plan was explained in detail in the reduced operations section of its sample food operations plan as required by the solicitation, KBR Comments at 41, KBR has not identified where in its revised proposal it identified that its limited services implementation plan referred to its approach to reduced operations, as discussed in its food operations plan. Indeed, nowhere in KBR's proposal beyond its discussion of the Baghdad Diplomatic Support Center in its sample transition plan could we find the term limited services implementation plan. See AR, Tab 10B, KBR's May 24, 2013 Proposal Revision, § 2.0 Sample Staffing Plan, at 7; Tab 10D, KBR's June 24, 2013 Final Proposal Revision, at 3, change page 1. It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which allows for a meaningful review

by the procuring agency. William J. Brant, Jr. & Assocs., B-406908, Sept. 26, 2012, 2012 CPD ¶ 264 at 3.

KBR also complains that the State Department failed to conduct meaningful discussions with respect to the agency's concern with KBR's high level of local national staffing for the Baghdad Diplomatic Support Center. KBR Comments at 46. KBR contends that, although the agency raised specific concerns about how KBR would manage the risks associated with the high local nationals staffing levels, the agency failed to inform KBR that the agency viewed the number of local national staff to be unreasonable high. Id. at 47.

Discussions, when conducted, must be meaningful; that is, discussions may not mislead offerors and must identify deficiencies and significant weaknesses in each offeror's proposal that could reasonably be addressed in a manner to materially enhance the offeror's potential for receiving award. TMM Inv., Ltd., B-402016, Dec. 23, 2009, 2009 CPD ¶ 263 at 3. To satisfy the requirement for meaningful discussions, the agency need only lead an offeror into the areas of its proposal requiring amplification or revision; all-encompassing discussions are not required, nor is the agency obligated to "spoon-feed" an offeror as to each and every item that could be revised to improve its proposal. L-3 Commc'ns Corp., BT Fuze Prods. Div., B 299227, B-299227.2, Mar. 14, 2007, 2007 CPD ¶ 83 at 19.

The record shows that the agency adequately informed KBR of its concerns during two rounds of discussions. The TEP informed KBR during discussions that a staffing target of [DELETED] percent local nationals within 6 months was unreasonable given the delays at Iraqi Government checkpoints, and reminded KBR that the checkpoint issue was the reason the RFP contained no local national staffing target for the Baghdad Diplomatic Support Center. AR, Tab 19A, KBR Discussions, May 15, 2013, attach. A, at 2. After KBR proposed mitigation strategies such as [DELETED], the TEP again raised the high local national staffing targets as a concern, requesting further information about the use of local nationals currently performing operations and maintenance work at the Center, and stating that "mitigation strategies such as [DELETED] are not desirable solutions." AR, Tab 19C, KBR Discussions, June 21, 2013, attach. A, at 3. In response to KBR's final proposal revision, the TEP noted that the proposed use of local nationals currently performing operations and maintenance work reduced the severity of the weakness, but that the concerns about KBR's mitigation strategies associated with a high number of local nationals working at the Baghdad Diplomatic Support Center remained. AR, Tab 18C, TEP Final Consensus Addendum for KBR, Aug. 19, 2013, at 2. In short, the record demonstrates that the agency adequately raised its

concerns about the large number of local national staff at the Center, and considered KBR's proposed mitigation strategies to address that concern.

The protests are denied.

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General Counsel