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Decision

Matter of: Ultra Electronics - 3 Phoenix, Inc.

File: B-412998

Date: July 25, 2016

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Craig A. Holman, Esq., and Lauren J. Schlanger, Esq., Arnold & Porter LLP, for L-3 Chesapeake Sciences Corporation, the intervenor.
Liza V. Craig, Esq., and Lea E. Delossantos, Esq., Department of the Navy, Naval Sea Systems Command, for the agency.
Peter D. Verchinski, Esq., and Noah B. Bleicher, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's evaluation of the protester's past performance is denied where the agency reasonably considered past performance information submitted by the protester, as well as other relevant information identified by the agency, and the evaluation was consistent with the stated evaluation criteria.
2. Agency's selection of a higher-rated, higher-priced proposal for award is unobjectionable where the agency's tradeoff decision was reasonable, and where the agency adequately documented its tradeoff rationale.

DECISION

Ultra Electronics – 3 Phoenix, Inc. (UE3P), of Chantilly, Virginia, protests the award of a contract to L-3 Chesapeake Sciences Corporation (L3CSC), of Millersville, Maryland, under request for proposals (RFP) No. N00024-14-R-6202, issued by the Department of the Navy, Naval Sea Systems Command (NAVSEA), for production of the TB-34X fat line towed array and light weight tow cables. UE3P primarily challenges the agency's evaluation of its past performance and the agency's source selection decision.

We deny the protest.

BACKGROUND

The RFP, issued on May 14, 2014, under Federal Acquisition Regulation (FAR) part 15, sought proposals for the design, development, testing, and production of the TB-34X fat line towed array and light weight tow cables over a base year and four 1-year option periods.¹ The solicitation contemplated the award of a single contract for first article design, development, and testing during the base year (under cost-plus-fixed-fee contract line items (CLINs)), as well as 39 TB-34X production quantities during the first option year (under cost-plus-incentive-fee CLINs) and additional quantities during subsequent option years (under fixed-price-incentive-fee CLINs). RFP at 2-25, 160-61. The RFP also sought the procurement of technical manuals, training curricula, warranties, data rights, engineering and technical services, and other direct costs (under a variety of fixed-price, cost-plus-fixed-fee, and cost-only CLINs). Id.

Pursuant to the RFP, award would be made on a best-value basis, considering price and the following technical evaluation factors (listed in descending order of importance): (1) performance specification compliance; (2) production capabilities; (3) past performance; and (4) management approach.² Id. at 146-47. The RFP specified that “overall technical merit” was more important than price. Id. at 162.

Of relevance here, under the past performance evaluation factor, offerors were instructed to describe in their proposals at least three previous government contracts (prime contracts or subcontracts) recently performed that were “most relevant to the effort required by this solicitation.”³ Id. at 133. The RFP advised

¹ In simple terms, a towed array is a sophisticated listening/sensing device, which is intended to be deployed behind a submarine by a towing cable, and which produces data to assist in locating and identifying other vessels and underwater features, particularly near shore. See Lockheed Martin Maritime Sys. & Sensors, B-299766, B-299766.2, Aug. 10, 2007, 2008 CPD ¶ 116 at 2 n.1.

² The evaluation factors, other than past performance, consisted of numerous subfactors. The performance specification compliance subfactors were: (1) performance specification compliance and (2) first article testing. The production capabilities subfactors were: (1) production and manufacturing approach; (2) personnel resources; (3) data rights; (4) configuration management and integrated logistics support; (5) facilities; and (6) production test capabilities. The management approach subfactors were: (1) program management; (2) schedule; (3) subcontractor management; and (4) small business subcontracting plan and participation. RFP at 146-47. The subfactors within each factor were listed in descending order of importance. Id. at 147.

³ The RFP defined relevance as performance on previous contracts for towed array production or contracts of similar type and complexity to the work required in the
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that the agency would assess the quality of an offeror's past performance based on the information provided by the offeror (including references), as well as information the agency gathered from other sources. Id. at 133, 150. The agency would place the "[g]reatest value" on contracts that demonstrated the "most relevant and best past performance." Id. at 150. Specifically, the agency would take into consideration similar efforts on contracts "proportionally to the similarity of the effort to the current requirements . . . in terms of technology, type of effort (development and fabrication), contract scope, schedule, and risk." Id. In evaluating past performance, the agency would first assess how relevant a recent effort was, and then assess how well the offeror performed on the effort. Id. at 152. Based on the agency's relevancy and performance determinations, the agency would assign a confidence rating to the proposal.⁴

Also of relevance to this protest, the production capabilities factor included a production test capabilities subfactor. Id. at 150. Under the subfactor, the RFP instructed offerors to describe the physical manufacturing test capabilities for production verification and factory acceptance testing of the arrays and tow lines, and identify the location of the testing facilities. Id. at 132. Specifically, the RFP identified 16 production test capabilities that offerors were to describe, including, for example, voltage sensor calibration and hydrophone spacing test. Id. The agency would evaluate offerors on the degree to which the proposal described the 16 different testing capabilities laid out in the solicitation. Id. at 150.

The agency received two proposals, UE3P's and L3CSC's, by the RFP's July 16, 2014, closing date.⁵ A Navy source selection evaluation board (SSEB) conducted an initial technical evaluation of proposals. Agency Report (AR), encl. 4, SSEB Report, June 10, 2015, at 1-50. With respect to past performance, the evaluators assessed UE3P's contracts overall as somewhat relevant with marginal performance, which resulted in an overall past performance rating of limited

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solicitation. RFP at 133. The RFP defined recent as contracts received, or in performance, during the past 3 to 5 years. Id.

⁴ Under the RFP, substantial confidence reflected a high expectation of successful performance; satisfactory confidence reflected a reasonable expectation of successful performance; limited confidence reflected a low expectation of successful performance; no confidence reflected no expectation of successful performance; and unknown confidence reflected a record that was so sparse that no meaningful rating could be reasonably given. RFP at 152-53.

⁵ According to the record, Ultra Electronics Holdings PLC acquired 3 Phoenix, Inc., in February 2014, and the company became Ultra Electronics – 3 Phoenix thereafter. Protest, attach. 2, Contractor Performance Assessment Report (CPAR) for 3 Phoenix, Inc., at 4.

confidence. Id. at 47. In reaching this conclusion, the evaluators considered four contracts UE3P identified in its proposal (one at the contract level and three referring to specific CLINs), as well as a fifth contract identified by the agency. The specific initial evaluation results, which included detailed narrative assessments, were as follows:

Contract	Relevancy	Performance
N00024-13-C-6264 (CLIN 0004: TB-29A Reliability Upgrade) ⁶	Somewhat Relevant	Unsatisfactory
N00024-12-C-6249 (CLIN 0103: TB-23) ⁷	Somewhat Relevant	Unsatisfactory
N00024-11-C-6287 (Torpedo Warning System) ⁸	Somewhat Relevant	Very Good
N00024-07-C-6274 (CLIN 0005: Photonics Mast) ⁹	Not Relevant	N/A
N00024-14-C-4043 (TB-29A Reliability Upgrade) ¹⁰	Somewhat Relevant	Unsatisfactory
Overall Rating	Somewhat Relevant	Marginal
	Limited Confidence	

Id. The SSEB also identified numerous weaknesses, significant weaknesses, and deficiencies in UE3P's proposal under the other non-price factors. Of relevance here, the evaluators highlighted as a significant weakness that, under the production test capabilities subfactor, UE3P's proposal failed to identify all the test facilities required in the solicitation; specifically, the proposal omitted voltage sensor calibration and hydrophone spacing test. Id. at 41. The SSEB explained that

⁶ Contract N00024-13-C-6264 (CLIN 0004) consisted of a reliability upgrade to the existing TB-29A towed array and was awarded to UE3P in April 2014. AR, encl. 3, UE3P Initial Proposal, July 16, 2014, at 113. Under CLIN 0004, UE3P was to provide two towed arrays that used UE3P's inverted passive electrical networking (iPEN) technology that the firm developed under contract N00024-14-C-4043.

⁷ Contract N00024-12-C-6249 (CLIN 0103) consisted of providing three kits of UE3P's iPEN technology for the Navy's use in the TB-23 array, and was awarded to UE3P in July 2013. AR, encl. 3, UE3P Initial Proposal, July 16, 2014, at 114-15.

⁸ Contract N00024-11-C-6287 was for a torpedo warning system, which consisted of development of a towed array, among other things, and was awarded in July 2011. AR, encl. 3, UE3P Initial Proposal, July 16, 2014, at 115-16.

⁹ Contract N00024-07-C-6274 (6274) was for a photonics mast system for Virginia class submarines, and was awarded in February, 2009. AR, encl. 3, UE3P Initial Proposal, July 16, 2014, at 118.

¹⁰ Contract N00024-14-C-4043, which was part of the small business innovation research (SBIR) program, consisted of developing, manufacturing, and testing for the thin line towed array reliability program, and required UE3P to deliver for operational testing one TB-29A array that used iPEN technology. AR, encl. 7, NAVSEA Discussions Letter to UE3P, July 27, 2015, at 22.

UE3P's lack of discussion of these two critical test capabilities significantly increased the possibility of unsuccessful contract performance. Id.

Thereafter, in July 2015, the Navy initiated discussions with the two firms. The agency provided each offeror with its complete technical evaluation, posed questions related to weaknesses/risk areas, and informed the firms that they could respond to any negative past performance information in their evaluation. Contracting Officer's (CO) Statement at 19; see AR, encl. 7, NAVSEA Discussions Letter to UE3P, July 27, 2015, at 1-37. Notably, the agency's discussion letters reiterated that responses to discussion questions would only be evaluated if the content of the response was incorporated into the offeror's final proposal revision (FPR). See AR, encl. 7, NAVSEA Discussions Letter to UE3P, July 27, 2015, at 2; see also RFP at 126 (advising offerors that written answers to discussion questions would become part of the proposal only if subsequently specifically referenced in the FPR).¹¹

On August 21, UE3P submitted its response to the issues raised in discussions. With respect to its past performance, UE3P provided additional details regarding each of the contracts. For instance, for the torpedo warning system contract (6287), UE3P addressed the SSEB's relevancy concerns, explaining that while the contract was only for seven arrays (as the SSEB had stated) the full program of record encompassed the delivery of [DELETED] arrays. AR, encl. 8, UE3P Response to Discussions, Aug. 21, 2015, at 15. UE3P also took exception to the three unsatisfactory past performance ratings and offered explanations for cost increases and schedule delays noted by the SSEB. Id. at 15-16.

UE3P also responded to the non-price weaknesses and deficiencies assigned by the SSEB. With respect to the production test capabilities subfactor significant weakness, UE3P submitted information relating to the two test capabilities that it had previously failed to discuss, including the location of the facilities and details regarding the testing. Id. at 10.

NAVSEA reviewed UE3P's responses. See AR, encl. 9, Review of UE3P Response to Discussion Questions, Sept. 29, 2015, at 1-73. With regard to past performance, the SSEB acknowledged the information UE3P provided regarding the relevancy of the torpedo warning system contract and the unsatisfactory ratings of the other contracts. Id. at 39. With regard to the information relating to the two production test capabilities, the SSEB found that UE3P had addressed the significant weakness by providing details on the testing that demonstrated compliance with the RFP requirements. Id. at 37. While the SSEB posed additional questions to UE3P related to other areas of the firm's proposal, the agency included

¹¹ Pursuant to the RFP, when discussions were complete, the contracting officer would close discussions and request FPRs. RFP at 126.

no further questions regarding past performance or the production test capabilities subfactor. See id. at 37, 39; CO Statement at 23.

After receiving UE3P’s responses to the agency’s follow-up questions, the agency closed discussions, requested and subsequently received final proposal revisions on November 12, and conducted a final evaluation of proposals.¹² With regard to UE3P’s past performance, the agency’s final evaluation resulted in the following ratings for the past performance contracts:

Contract ¹³	Relevancy	Performance
N00024-13-C-6264 (CLIN 0004: TB-29A Reliability Upgrade)	Somewhat Relevant	Unsatisfactory
N00024-12-C-6249 (CLIN 0103: TB-23)	Somewhat Relevant	Marginal
N00024-11-C-6287 (Torpedo Warning System)	Very Relevant	Very Good
N00024-14-C-4043 (TB-29A Reliability Upgrade)	Somewhat Relevant	Unsatisfactory
Overall Rating	Somewhat Relevant	Marginal
	Limited Confidence	

AR, encl. 13, Final SSEB Report, Feb. 17, 2016, at 53. The agency’s ratings for each contract were supported by narrative explanations, which included the agency’s initial evaluation and the agency’s final evaluation. See id. at 46-53. Of note, the agency revised the relevancy rating for UE3P’s torpedo warning system contract (6287), as well as the performance rating for the TB-23 contract (6249).¹⁴

In addition, the agency evaluated UE3P’s FPR as having a minor weakness under the production test capabilities subfactor due to the lack of a description of the two test capabilities. Id. at 46. Specifically, while UE3P had previously addressed this weakness in its discussion responses when it identified and described the two production tests and facilities, the firm neglected to include the same information in

¹² In its request for FPRs, the Navy again warned that responses to discussion questions would only be evaluated to the extent that the responses were incorporated into the FPR. AR, encl. 11, NAVSEA Letter, Oct. 26, 2015, at 1.

¹³ In its FPR, UE3P did not identify its technology insertion photonics mast contract (6274) for review. See AR, encl. 12, UE3P FPR, Nov. 12, 2015, at 117-22; CO Statement at 25. Consequently, the contract was not considered further by the agency. AR, encl. 13, Final SSEB Report, Feb. 17, 2016, at 46-47.

¹⁴ The agency also noted that [DELETED].

its FPR. In this regard, UE3P identified the location of the two test facilities in its FPR, but the firm “failed to fully describe” the two “critical capabilities.” See id. at 46.

The Navy’s final evaluation of L3CSC’s and UE3P’s proposals was as follows:

	L3CSC	UE3P
Performance Specification Compliance	Outstanding	Outstanding
Production Capabilities	Outstanding	Good
Past Performance	Very Relevant/ Satisfactory Confidence	Somewhat Relevant/ Limited Confidence
Management Approach	Good	Good
Evaluated Price	\$41,467,793	\$34,047,478

AR, encl. 14, Source Selection Decision Document (SSDD), Mar. 25, 2016, at 3-4.

The source selection authority (SSA) reviewed the various evaluation reports, including the SSEB and cost/price reports, and conducted a comparative assessment of the proposals. Id. at 1-9. The SSA concurred with the SSEB’s technical findings, incorporated them into her decision, and conducted a best-value tradeoff analysis. In comparing the proposals of L3CSC and UE3P, the SSA found that L3CSC’s proposal was technically superior under each of the evaluation factors. Id. at 5-7. With regard to L3CSC’s higher-rated and higher-priced proposal, the SSA acknowledged the price premium associated with the firm’s proposal (a premium of \$7,420,315), but noted that L3CSC’s proposal contained no weaknesses, offered greater technical benefits than UE3P’s proposal, and offered a greater likelihood of successful performance. Id. at 8. The SSA ultimately concluded that the benefits of the technical strengths associated with L3CSC’s proposal warranted the higher price. Id. at 8-9.

On April 7, 2016, NAVSEA awarded the contract to L3CSC. Following a debriefing, UE3P filed this protest on April 18.

DISCUSSION

UE3P challenges the agency's evaluation of its proposal and source selection decision. Specifically, the protester asserts that the agency misevaluated its past performance and objects to the minor weakness assigned under the production test capabilities subfactor.¹⁵ After considering all of the protester's arguments, we find no basis to sustain the protest. We address UE3P's primary arguments below.

Past Performance

UE3P protests various aspects of the agency's evaluation of its past performance.¹⁶ UE3P challenges the agency's assessment of its quality of performance under both TB-29A reliability upgrade contracts (6264 and 4043), as well as under the TB-23 array contract (6249). For example, under the first TB-29A reliability upgrade contract (6264), the protester asserts that the agency improperly rated its performance as unsatisfactory despite the firm receiving a mix of very good and exceptional ratings on a contractor performance assessment report (CPAR) for this contract. The protester also argues that the agency rated the performance as unsatisfactory based solely on UE3P's request for more time and money, but did not consider UE3P's technical quality and work product. Protest at 11.

With respect to the other TB-29A reliability upgrade contract (4043), the protester complains that the agency failed to take into account gaps in the contract's period of

¹⁵ The protester also alleged that the agency engaged in a disparate evaluation of past performance, asserting that for L3CSC the Navy only evaluated contracts identified in the firm's proposal and not others identified by the agency, but for UE3P the agency considered a contract that UE3P had not identified in its proposal. However, other than its conclusory allegation, UE3P's protest provided no support for the contention. (Indeed, the record confirms otherwise. See AR, encl. 14, SSDD, Mar. 25, 2016, at 6.) Our Bid Protest Regulations require that a protest must include a sufficient factual basis for its allegations. 4 C.F.R. § 21.1(c)(4), (f). Because UE3P's speculative assertion regarding disparate treatment fails to meet this requirement, our Office dismissed that portion of its protest. See 4 C.F.R. § 21.5(f); Email from GAO to Parties, May 3, 2016, at 1.

¹⁶ For example, UE3P objects to the agency's determination that the firm's photonics mast contract (6274) was not relevant. Protest at 12-13. As noted above, UE3P did not identify this contract in its FPR, see AR, encl. 12, UE3P FPR, Nov. 12, 2015, at 117-22, and, as a result, it was not considered by the SSEB during the final evaluation. AR, encl. 13, Final SSEB Report, Feb. 17, 2016, at 46-47. Given this, whether the agency reasonably assessed the relevance of the contract during its initial evaluation is of no consequence here because the effort was not considered as part of the ultimate award determination.

performance and intermittent technical instructions it received from the agency. UE3P also highlights that the array was scheduled for deployment in April 2016 and that the Navy had stated that getting an array deployed on a submarine in 3 years (despite not having a contract at the beginning of the period) was “remarkable,” and that UE3P had done “exceptional work to make that happen.” Protest at 11.

Similarly, with respect to the TB-23 contract (6249), the protester asserts that the SSEB’s marginal rating was “solely based upon a comment and subjective assessment concerning a \$263,731 overrun on that contract.” Protest at 12. Also, the protester complains that the agency upwardly revised its rating under this contract, but failed to do so for the TB-29A contracts (6264 and 4043).

Lastly, the protester argues that the agency failed to give more weight to its very relevant/very good performance torpedo warning system contract (6287), as required by the RFP. The protester argues that, rather than weighing this contract more heavily than its contracts that were deemed somewhat relevant, the Navy unreasonably weighed each contract equally. Protester’s Comments at 25. But for these evaluation errors, UE3P maintains that its proposal would have received either a substantial confidence or satisfactory confidence rating.

An agency’s evaluation of past performance, including its consideration of the relevance, scope, and significance of an offeror’s performance history, is a matter of discretion which we will not disturb unless the agency’s assessments are unreasonable or inconsistent with the solicitation criteria. SIMMEC Training Solutions, B-406819, Aug. 20, 2012, 2012 CPD ¶ 238 at 4. Where a protester challenges an agency’s past performance evaluation, we will review the evaluation to determine if it was reasonable and consistent with the solicitation’s evaluation criteria and procurement statutes and regulations, and to ensure that it is adequately documented. Falcon Envtl. Servs., Inc., B-402670, B-402670.2, July 6, 2010, 2010 CPD ¶ 160 at 7. A protester’s disagreement with the agency’s evaluation judgments concerning the merits of past performance does not establish that the evaluation was unreasonable. Sam Facility Mgmt., Inc., B-292237, July 22, 2003, 2003 CPD ¶ 147 at 3.

Here, our review of the record finds that the agency’s evaluation of UE3P’s past performance was reasonable and consistent with the RFP’s evaluation terms. In this regard, we have considered the protester’s challenges to the agency’s performance ratings, and find none demonstrates that the agency conducted an improper evaluation. With regard to UE3P’s performance on the TB-29A reliability upgrade contracts (6264 and 4043), as well as on the TB-23 contract (6249), the protester concedes, and the agency record confirms, that UE3P encountered schedule difficulties and cost overruns in performance of the contracts. The protester’s response to each of its low ratings is to assert (essentially) that the agency should consider the procurement path that led to delays, and that the agency should focus instead on the quality of the resulting product. However, the

record shows that the agency specifically considered this information in its final SSEB evaluation, but nevertheless found that this did not refute the negative past performance information.

For example, with respect to the positive CPAR ratings highlighted by the protester for its TB-29A reliability upgrade contract (6264), the record reflects that the agency acknowledged the very good and exceptional ratings. See AR, encl. 13, Final SSEB Report, Feb. 17, 2016, at 48. However, the evaluators noted that while the CPAR covered the performance period from May 2013 to May 2014, the CLIN for the two TB-29 arrays (CLIN 0004)--the relevant part of the contract--was not under contract until April 2014. Therefore, the CPAR did not include information related to UE3P's performance of the TB-29A reliability upgrade effort that the protester cited to in its proposal. See id.

Instead, the evaluators took into account a May 2015 letter submitted by the protester to the Navy regarding the TB-29A reliability upgrade effort. In that letter, UE3P advised that the "program is experiencing cost growth due to a combination of multiple issues," including supplier delivery delays, establishment of a second supplier source to reduce risk, production delays, increased labor to complete test design and drawing updates, additional labor required for testing, increased engineering effort to support production, and unexpected design updates to schematic and drawing revisions. See AR, encl. 5, UE3P Letter to Navy, May 7, 2015, at 1. Because UE3P had experienced "cost growth due to multiple technical issues" on the contract and UE3P had requested a few months of "schedule relief," the SSEB reasonably assessed UE3P's performance on this contract as unsatisfactory. AR, encl. 13, Final SSEB Report, Feb. 17, 2016, at 49.

Likewise, on the related TB-29A effort (4043), the SSEB cited to a November 2014 UE3P internal cost projection revealing cost overruns of approximately \$1.1 million due to technical issues with hardware, as well as a January 2015 cost overrun proposal from UE3P seeking approximately \$1.45 million in cost overruns.¹⁷ Id. at 53. UE3P in discussions pointed to the "patchwork contractual path" taken on the effort, which the SSEB represents it considered. AR, encl. 8, UE3P Response to Discussions, Aug. 21, 2015, at 15; id., encl. 13, Final SSEB Report, Feb. 17, 2016, at 53. In deciding to assign UE3P's performance on this effort an unsatisfactory rating, the agency reasonably concluded that UE3P merely disagreed with the evaluators' assessment and failed to refute the negative past performance information.¹⁸ AR, encl. 13, Final SSEB Report, Feb. 17, 2016, at 53.

¹⁷ The awarded contract value was approximately \$4 million. AR, encl. 13, Final SSEB Report, Feb. 17, 2016, at 53.

¹⁸ UE3P also points to the fact that it ultimately delivered the array in April 2016, and the Navy allegedly stated (during a program status review in May 2016) that UE3P had performed "exceptional work." Protest at 11. However, the agency was
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Given that the record highlights performance problems under the TB-29A reliability upgrade efforts (as well as under the TB-23 array contract) we find nothing unreasonable with the agency's determination that the problems UE3P encountered in performance of these contracts reflect a low expectation that the protester will satisfactorily perform the procurement at issue.

Next, we find nothing improper with level of consideration given to UE3P's torpedo warning system contract (6287). Here, the SSA acknowledged in her decision that UE3P performed "well on one contract that was found to be very relevant." AR, encl. 14, SSDD, Mar. 25, 2016, at 6. Nevertheless, the SSA noted that, on the three other contracts that the agency considered, UE3P had experienced cost overruns due to technical issues that occurred during performance of those contracts. Id. The SSA stated that she looked at UE3P's "past performance record as a whole," and concluded that there was low expectation that UE3P would successfully perform the contract. Id. Given that the SSA recognized that UE3P had performed well on a very relevant contract, and that the SSA considered the contracts as a whole, we find no basis to conclude that the agency failed to properly consider UE3P's performance on the torpedo warning system contract or that the proposal's limited confidence past performance rating was unreasonable.

Production Test Capabilities Subfactor

UE3P objects to the minor weaknesses assigned to its proposal, and the SSA's consideration thereof, under the production test capabilities subfactor. As noted above, the agency assessed UE3P's FPR a minor weakness--the only one--because UE3P failed to fully describe the voltage sensor calibration and hydrophone spacing testing. AR, encl. 13, Final SSEB Report, Feb. 17, 2016, at 46. UE3P counters that it provided the information in its response to discussion questions. Protester's Comments at 27.

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under no obligation to consider this information, because the agency's final SSEB evaluation took place in February 2016, and award was made on April 7, 2016. Because there is no requirement that an agency continue to seek updated performance information subsequent to its past performance evaluation, we find nothing objectionable with the fact that the agency did not consider the information cited by UE3P in its protest. See, e.g., CMJR, LLC d/b/a Mokatron, B-405170, Sept. 7, 2011, 2011 CPD ¶ 175 at 8 (denying protest argument objecting to the agency's failure to consider a March past performance report where the past performance evaluation was completed in January); MINACT, Inc., B-400951, Mar. 27, 2009, 2009 CPD ¶ 76 at 7 n.4 (where agency used the most recent information available at time of evaluation, there is no requirement that agency seek more recent information at time of source selection).

It is an offeror's responsibility to submit a well-written proposal with adequately-detailed information that allows for a meaningful review by the procuring agency. iGov, et al., B-408128.24 et al., Oct. 31, 2014, 2014 CPD ¶ 329 at 31. An offeror risks having its proposal evaluated unfavorably where it fails to submit an adequately-written proposal. STG, Inc., B-411415, B-411415.2, July 22, 2015, 2015 CPD ¶ 240 at 5-6.

Here, we have no basis to question the assignment of the minor weakness. In this regard, the agency advised UE3P of a significant weakness relating to the two test capabilities during discussions. AR, encl. 7, NAVSEA Discussions Letter to UE3P, July 27, 2015, at 13-14. The agency also reiterated in its discussions letter the RFP requirement that written answers to discussion questions would become part of the proposal only if subsequently specifically referenced in the FPR. See id. at 2; RFP at 126. In response to discussions, UE3P submitted by letter the requested information relating to the two test capabilities, including the location of the facilities and details regarding the testing. AR, encl. 8, UE3P Response to Discussions, Aug. 21, 2015, at 10. However, as explained above, the firm neglected to include the same information in its FPR. Specifically, in its FPR UE3P identified the location of the two tests, but did not re-submit its full description of the test capabilities. See AR, encl. 12, UE3P FPR, Nov. 12, 2015, at 115-17. As a result, the lack of description for the two critical capabilities garnered a minor weakness in the agency's final evaluation. AR, encl. 13, Final SSEB Report, Feb. 17, 2016, at 46.

Given the RFP's express warning that answers to discussion questions would only become part of the proposal if referenced in the FPR, and in light of the fact that UE3P did not include the same level of information regarding the two test capabilities in its FPR (as it did in response to discussions), we have no basis to question the agency's assignment of a minor weakness on this basis.

Best-Value Decision

Lastly, the protester challenges the agency's source selection decision. As an initial matter, the protester asserts that the agency failed to adequately document its rationale for selecting a proposal that was \$7.4 million (approximately 22 percent) higher in price.

Where solicitations provide for award on a best-value basis, it is the function of the source selection authority to perform a price/technical tradeoff, that is, to determine whether one proposal's technical superiority is worth the higher price. Lynxnet, LLC, B-409791, B-409791.2, Aug. 4, 2014, 2014 CPD ¶ 233 at 13. The extent to which one is sacrificed for the other is governed only by the test of rationality and consistency with the stated evaluation criteria. Id.; Remington Arms Co., Inc., B-297374, B-297374.2, Jan. 12, 2006, 2006 CPD ¶ 32 at 15. Where a

price/technical tradeoff is made, the source selection decision must be documented, and the documentation must include the rationale for any tradeoffs made, including the benefits associated with additional costs. FAR §§ 15.101-1(c), 15.308; Remington Arms Co., Inc., supra.

Here, we find nothing improper with the agency's best-value decision. The record reflects a comprehensive examination of the evaluation record by the SSA and a well-documented source selection decision. The SSA summarized the evaluators' findings and identified discriminators in the competing proposals. For example, under the performance specification compliance factor, the SSA concluded as follows:

Whereas both offerors proposed a Light Weight Tow Cable (LWTC) as required, it is of great significance and benefit to the Navy that L-3 CSC's LWTC, unlike UE3P's, is [DELETED], which exceeds the Government requirement.^[19]

AR, encl. 14, SSDD, Mar. 25, 2016, at 5. Likewise, under the production capabilities factor, the SSA highlighted the strengths of both proposals, but ultimately concluded that:

the extensive experience of the L-3 CSC team, their risk reduction of the production through improved processes with skilled and trained personnel in place, their thorough understanding of critical processes, their ILS process approach, their available throughput and additional production capacity with access to or already in place production test capabilities, are beneficial to the Government.

Id. at 6. Based on these and other discriminators, including, significantly, the notably different past performance evaluation results, the SSA reasonably concluded that the benefits of L3CSC's proposal were of greater value to NAVSEA than those of UE3P's proposal, and justified the \$7.4 million price premium. Put simply, the documentation demonstrates that the SSA was sufficiently aware of the relative merits and costs of the competing proposals, and the source selection was reasonably based.²⁰ See Wyle Labs., Inc., B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 11.

¹⁹ The protester argues that its tow cable and array [DELETED] in the same manner as the awardee's, and the protester cites to portions of its proposal to demonstrate [DELETED]. Protester's Final Comments at 3-5. However, we agree with the agency that UE3P's proposal did not clearly establish [DELETED].

²⁰ To the extent that the protester asserts that the SSA improperly relied on UE3P's minor weakness (regarding UE3P's failure to fully describe two test capabilities) to justify award of a contract to a proposal that was approximately 22 percent higher in
(continued...)

The protester raises several other challenges to the agency's source selection decision. We find them all to be without merit. As an example, the protester asserts that the agency improperly found UE3P's proposed data rights to be a "negative factor" in the evaluation record and award decision. Protester's Comments at 11. UE3P argues that any issues regarding data rights were resolved during discussions, such that the agency's final SSEB evaluation concluded that there was no more weakness. See AR, encl. 13, Final SSEB Report, Feb. 17, 2016, at 42. Thus, according to UE3P, it was improper for the SSA to raise this issue in her decision.

Here, the record does not support the protester's position. The SSDD does not list the protester's proposed data rights as a negative factor per se; rather the SSA simply described the data rights included in L3CSC's proposal and the data rights included in UE3P's proposal. AR, encl. 14, SSDD, Mar. 25, 2016, at 6. The SSA noted that L3CSC proposed [DELETED], whereas UE3P proposed [DELETED]. Id. Consistent with her mandate to weigh the benefits of competing proposals, the SSA considered L3CSC's proposed data rights to be a "significant benefit" to the agency for troubleshooting, repairs, and future competition. Id. We see nothing improper with the SSA's recognition, consideration, and comparison of the firms' proposed data rights in her source selection decision.

In sum, we find reasonable the agency's evaluation of UE3P's proposal under the past performance and production capabilities factor, as well as the SSA's cost/technical tradeoff. The protester's objections reflect its disagreement with the agency's determinations and best-value decision, but do not provide a basis to sustain the protest.

We deny the protest.

Susan A. Poling
General Counsel

(...continued)

price, nothing in the SSDD indicates that the SSA reached her award decision based solely on this single weakness. Indeed, the SSDD demonstrates that the SSA comprehensively considered all evaluation findings, and this was but one minor weakness that factored into her best-value decision. See AR, encl. 14, SSDD, Mar. 25, 2016, at 1-9