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# Decision

**Matter of:** Biswas Information Technology Solutions, Inc.

**File:** B-414760.3; B-414760.4

**Date:** October 5, 2018

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## DIGEST

1. Protest that agency misevaluated protester's and awardee's proposals is denied where record shows that evaluation was reasonable and consistent with solicitation.
  2. Protest that agency conducted unreasonable price realism evaluation of awardee's proposal is denied where record shows that agency identified awardee's lower staffing level and labor rates, and reasonably determined that staffing level was offset by proposed software tools and that labor rates did not indicate unrealistic pricing.
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## DECISION

Biswas Information Technology Solutions, Inc. (BITS), of Herndon, Virginia, a small business, protests the award of a contract to BA-ZAI JV, LLC, of Rockville, Maryland, also a small business,<sup>1</sup> under request for proposals (RFP) No. 16-223-SOL-00101, issued by the Department of Health and Human Services, Food and Drug Administration (FDA), for data management and support services. The protester argues that the FDA misevaluated the proposals and made an unreasonable source selection decision.

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<sup>1</sup> BA-ZAI JV identifies itself as a Small Business Administration (SBA)-approved 8(a) Program mentor-protégé joint venture between BarnAllen Technologies, Inc. and Zimmerman Associates, Inc., a team member on the incumbent contract.

We deny the protest.

## BACKGROUND

The RFP, issued on September 30, 2016, was a combined synopsis and solicitation for commercial items under a set-aside competition for participants in the SBA's Section 8(a) Business Development Program. The RFP anticipated the award of a single indefinite-delivery/indefinite-quantity (IDIQ) contract under which the agency expected to issue fixed-price, time-and-materials, or labor-hour orders with a maximum total value of \$103 million over the 5-year ordering period. RFP<sup>2</sup> at 1-2.

The procurement will allow the FDA to obtain a comprehensive solution to best accomplish FDA Center specific mission objectives to satisfy operational data management requirements. AR at 1. The resulting contract is intended to be a structure for a contractor to provide "diverse data management services," and the RFP noted that ongoing changes to FDA processes and systems are expected to affect the tasks required under the contract, and to "require the adoption of new software, new internet portals, revised Standard Operating Procedures [], and additional staff training." Id. at 2. The RFP also provided a statement of work (SOW) for an initial task order to support the FDA Adverse Event Reporting System Data Management Program (FAERS DMP). See generally RFP attach. C.

Award was to be made to the offeror whose proposal was evaluated as the best value using six factors (including the evaluated price for the FAERS DMP task order). The first factor, multiple concurrent task order management, was to be evaluated on a go/no-go basis. The remaining non-price factors, in descending order of importance, were technical understanding of and approach to the IDIQ and the sample task order (hereinafter, technical approach); management understanding and approach to the IDIQ and the sample task order (management approach); offsite facilities; and relevant experience. RFP at 8-9. With the exception of the go/no-go factor, the non-price factors were to be assessed using adjectival ratings of excellent, highly acceptable, acceptable, marginal, or unacceptable. Id. at 11. The RFP also stated that FDA would evaluate relative performance risks as indicated by the offeror's record of past performance to assess an adjectival rating of low risk, neutral, or high risk. Id. at 10. The price factor would compare prices for the initial task order, and would also consider the offeror's ability to comply with the limitation on subcontracting clause. Id. at 11.

Proposals would be evaluated under the technical approach factor to assess whether the offeror demonstrated understanding of the task order requirements and the associated risks, and provided a technical approach that was "sound, logical, likely to be effective, and proactive in mitigating risks." RFP at 8-9. Under the management approach factor, proposals would be evaluated to assess whether the offeror provided a

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<sup>2</sup> Citations are to the amended RFP, identified as Agency Report (AR) Tab 3T.

clear and effective approach that demonstrated a comprehensive approach to managing all aspects of task order performance and administration. Id. at 9.

For the offsite facilities factor, the RFP identified five requirements that would be evaluated, one of which was whether the proposed facility was capable of directly connecting to the FDA network via a dedicated high speed network link, and had a capability to host, via Virtual Private Network, the expected number of initial data entry personnel until an FDA network can be installed. Id. at 9-10. Under the relevant experience factor, proposals would be evaluated on the offeror's success of efforts on current and previous contracts that are relevant to the SOW. Id. at 10.

Price would be evaluated based on the offeror's FAERS DMP task order, including an evaluation of its "fairness and reasonability in terms of reasonable and realistic pricing." Id. at 10. The RFP cautioned that proposing an

unrealistically low price . . . may be grounds for eliminating a quote from further consideration, either on the basis that the Offeror does not understand the required services or has made an imprudent offer. The Government will evaluate the Offeror's ability to deliver an efficient, low-risk price service at a fair and reasonable price. As part of this evaluation, the Government will evaluate:

- Offeror[']s proposed Labor Hour (LH) price in response to the sample task order (Attachment E) will be evaluated for reasonableness and realism for the work to be performed. The final proposed and evaluated price of the first task order will be the awarded value.

Id. at 10-11.

Following the release of the RFP, vendors submitted written questions, which the agency posted, along with its responses, as an RFP amendment. In what was identified as question No. 42, a prospective offeror inquired as follows:

With regards to Attachment C--Task Order SOW, while the Government has provided historical workload levels, expected future workload levels are not shown. Given the new electronic mandate and the implementation of AgTracker that will change the workflow and workloads for manual processing, what are the Government's estimated workloads for the one-year task order period of performance?

AR Tab 3U, Initial Questions & Answers (Q&A) Table, at 7 (Q&A No. 42).

FDA responded in what was designated answer No. 42, as follows:

New software and regulations are changing our labor mix but this is still playing out. We ask that bidders compete against a known historical standard.

Id. (Q&A No. 42).

In a second set of questions and answers issued later, an offeror noted that the RFP provided workload information from 2015 and asked for more current data. Other questions specifically asked for the current number of full-time equivalents (FTEs) supporting the FAERS DMP task order requirement. Each time, FDA's response was to direct offerors to its response to question 42, quoted above. AR Tab 3W, Second Question & Answer Table, at 2-4 (Q&As 14, 28, 29, 72 & 73).

FDA received proposals from eight offerors, seven of which (including those from BITS and BA-ZAI) were rated go under the factor 1 criteria. Following that initial evaluation, FDA awarded the contract to BA-ZAI on May 25, 2017. BITS and a third offeror filed protests with our Office challenging the award. Shortly thereafter, FDA announced that it would take corrective action by reevaluating the proposals and making a new source selection decision. Our Office dismissed the protests as academic.

FDA reevaluated the proposals under each evaluation factor, including the FAERS DMP task order price. For use in evaluating the price proposals, FDA utilized an independent government cost estimate (IGCE) for the FAERS DMP task order, which estimated the total price for all 5 years at \$25.4 million. AR Tab 6A, IGCE Spreadsheet.

#### Reevaluation of BITS

Among other things, the BITS technical proposal identified the firm's experience in records management, its approach to each task, the skill and experience of BITS and its subcontractors, and three proposed process improvements. AR Tab 5B, BITS Proposal, vol. II, at 3-22. As part of the proposed management approach, the proposal provided a general organizational structure diagram for the IDIQ contract to illustrate positions and their organizational relationships, and another for the task order. Id. at 46, 50. The proposal also described the firm's offsite facilities, id. at 52-55, as well as the relevant experience of BITS and its team members. Id. at 56-59.

In reevaluating BITS's proposal under the technical approach factor, FDA assessed one strength for the firm's proposed process improvements, which the evaluators concluded would improve FDA's collection of adverse event data. AR Tab 7A, Project Advisory Group Technical Evaluation Report, at 54. Under the management approach factor, however, FDA assessed two weaknesses because BITS's proposal provided a confusing organizational structure. In particular, the proposal appeared to propose a "[DELETED]" role in its organization without making clear whether the reference was to a program manager or a project manager. The proposal also depicted an organizational hierarchy in which that "[DELETED]" appeared to be over a "[DELETED]," who in turn was over a "[DELETED]." Id. at 61. The evaluation

concluded that the proposed management approach was thus unclear and inefficient. Id.

Under the offsite facilities factor, FDA evaluated BITS's proposal as acceptable, with no weaknesses or significant weakness (in contrast to the original evaluation, which had assessed a significant weakness under the factor), and assessed the original acceptable rating. Id. at 62. Finally, under the relevant experience factor, FDA assessed as a strength the experience of BITS's subcontractor, and assessed an acceptable rating. Overall, the reevaluation assessed an acceptable rating for BITS's proposal. Id. at 52.

#### Reevaluation of BA-ZAI

Among other things, BA-ZAI's technical proposal discussed the firm's plan to use a software tool called "[DELETED]," a project management portal, to automate planning and tracking of the work, and another tool called "[DELETED]" as a performance management tool to manage workloads, workflow, and productivity. AR, Tab 4C, BA-ZAI Proposal, vol. 2, at 32-34. BA-ZAI's price proposal provided a staffing level for the FAERS DMP Task Order of 21.05 FTE, of which its program manager was proposed at [DELETED] hours annually (or [DELETED] FTE). AR Tab 4F, BA-ZAI Proposal Task Order Price Spreadsheet, at Sheet "Task 1." Similarly, the proposal listed assumptions, which included an explanation that the firm proposed [DELETED] hours per month of program manager time. Id. at Sheet "Assumptions" (item 11).

In reevaluating BA-ZAI's proposal under the management approach factor, FDA stated that BA-ZAI had described its use of its project management portal and its performance management tool, as noted above. AR Tab 7A, Project Advisory Group Technical Evaluation Report, at 38. FDA also observed that BA-ZAI's proposed Program Manager had 28 years of experience in program management with 10 years supporting FDA and had "exceptional qualifications and pertinent experience" that would provide "proactive planning, management, and oversight; avoidance of schedule delays and the ability to predict technical and management risks before they become realized." Id. at 39. The FDA rated the firm's proposal highly acceptable for the factor.

Under the offsite facilities factor, the reevaluation noted BA-ZAI's proposed facility exceeded the agency's minimum requirement by having an FDA data cable already installed, thereby providing a direct connection to FDA's White Oak campus. FDA assessed inclusion of this capability in BA-ZAI's proposal as meriting a highly acceptable rating for this factor. Id.

The reevaluation also noted that BA-ZAI proposed a lower level of staffing that needed better justification, but stated that this concern was offset by the firm's software tools. Id. at 39. In a separate business proposal evaluation, FDA again noted BA-ZAI's lower proposed staffing level. AR Tab 7B, Project Advisory Group Business Evaluation Report, at 13. The evaluation report considered that BA-ZAI's proposed level of effort was "significantly lower than the IGCE," but that the evaluators nevertheless concluded that due to "the efficiency and innovativeness of the offeror's approach, it is found to be

realistic for the work to be performed.” Id. The evaluation went on to note specifically that BA-ZAI’s proposal was based in part on shorter time estimates for several typical tasks, and that the firm had explained that those efficiencies were based on its current experience. Id. at 14.

The agency analyzed each of BA-ZAI’s base period labor rates in comparison to the labor rate either from the previous contract or from the General Services Administration’s average rate data for the specific labor category. That comparison showed that nearly all of BA-ZAI’s rates were lower than the comparable rate, and that in some cases BA-ZAI’s labor rates were a fraction of the comparable rate. As examples, for some subject matter expert labor categories, some of the comparable rates were between 150 and 230 percent higher than BA-ZAI’s rates for some subject matter experts, and between 25 and 60 percent higher than BA-ZAI’s rates for computer technicians. AR Tab 8B, Labor Rate Analysis Spreadsheet. FDA considered the rates, noted that the rates for two labor categories were 3 percent and 9 percent higher than the comparable rates, but reasoned that those two rates were “fair and reasonable.” AR Tab 9A, Award Recommendation & Approval Memo, at 69. FDA also noted that some of BA-ZAI’s labor rates were “significantly lower” than the comparison rates, but concluded that “this does not mean that they were unrealistically low,” but rather “it means the pricing was lower than the average labor category rate, which is beneficial to the government, yet competitive to the current proposals.” Id.

The results of the final evaluation for BA-ZAI and BITS were as follows:

<b>Factor</b>	<b>BA-ZAI</b>	<b>BITS</b>
<b>Technical approach</b>	Acceptable	Highly Acceptable
<b>Management approach</b>	Highly Acceptable	Acceptable
<b>Offsite facilities</b>	Highly Acceptable	Acceptable
<b>Relevant experience</b>	Highly Acceptable	Acceptable
<b>Overall Rating</b>	<b>Acceptable</b>	<b>Acceptable</b>
<b>Evaluated Price (Task Order 1)</b>	<b>\$2.4 million</b>	<b>\$3.8 million</b>
<b>Task Order 1 Level of Effort</b>	<b>39,576 hours</b>	<b>61,880 hours</b>
<b>Price Comparison to IGCE</b>	<b>-44 percent</b>	<b>-9 percent</b>

AR Tab 9A, Award Recommendation & Approval Memo, at 5; Tab 8A, Task Order 1 Overall Pricing Comparison Spreadsheet, at 1.

In an award recommendation and approval memorandum, the contracting officer summarized and reviewed the conclusions of the evaluators. AR Tab 9A, Award Recommendation & Approval Memo, at 8-10 (BA-ZAI), 10-14 (BITS). The contracting officer synopsis the evaluation as showing that BITS’s proposal was superior to BA-ZAI’s under the technical approach factor, but BA-ZAI’s “exceeded the requirements” under the other three non-price factors. Id. at 91-92. The contracting officer explained that while BITS’s proposal was thus superior under the most important qualitative factor (technical approach), BA-ZAI’s proposal had been assessed no weaknesses under that factor. Id. at 92. Under the management approach factor, the

contracting officer explained that BITS's proposal was rated acceptable and had been assessed multiple weaknesses, and that BA-ZAI's proposal had also been assessed a weakness. Id. However, the contracting officer then explained that BA-ZAI had proposed two software tools that provided advantages to "offset any risk" posed by the weakness. Id. Altogether, the contracting officer concluded that BA-ZAI's advantages under the three less-significant factors outweighed BITS's advantage under the most important factor and, when combined with BA-ZAI's lower evaluated price, made BA-ZAI's proposal the best value. Id. at 96.

On June 22, 2018, FDA announced that the proposal from BA-ZAI had again been selected for award. After receiving a debriefing, BITS filed this protest.

## PROTEST

BITS raises multiple challenges to the evaluation and source selection decision. Generally, BITS argues that FDA misevaluated the technical proposals of both BA-ZAI and BITS, and failed to make a proper price realism analysis of BA-ZAI's proposal, which then resulted in an unreasonable source selection decision. We address the firm's main arguments challenging the evaluation of each firm's proposal and, as explained below, we conclude that the record shows that the evaluations and the price realism analysis were reasonable, so we deny the protest.

### Technical Evaluation of BITS Proposal

BITS raises three main arguments in support of its contention that the evaluation of its technical proposal was unreasonable. First, BITS argues that FDA unreasonably assessed two weaknesses in its proposal. Second, the firm argues that the evaluation overlooked aspects of its proposal that should have been assessed as strengths. Third, BITS argues that even though FDA decided to remove a significant weakness under the offsite facilities factor that the agency had assessed in the original evaluation, FDA unreasonably failed to upgrade BITS's adjectival rating for the factor.

In reviewing a protester's challenge to the evaluation of proposals, our Office will not reevaluate the proposals or substitute our judgment for that of the agency; rather, the evaluation of proposals is a matter within the agency's discretion. Navistar Defense, LLC, et al., B-401865 et al., Dec. 14, 2009, 2009 CPD ¶ 258 at 7. Our role in reviewing the protest is to examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. Id. The agency's evaluation record is not required to document every instance where the evaluators conclude that an offeror met the RFP's requirement without meriting additional evaluation credit. Unispec Enters., Inc., B-407937, B-407937.2, Apr. 16, 2013, 2013 CPD ¶ 104 at 8.

FDA assessed two weaknesses to BITS's proposal under the management approach factor. The first was because the proposal did not provide sufficient detail on its management approach. FDA noted that the organizational chart depicting BITS's

structure for the overall IDIQ contract was unclear in multiple ways by failing to clearly explain a “contract manager” role, by depicting the contracting officer’s representative as having interaction only with the program manager, and by designating multiple “PM,” roles, which was deemed an ineffective approach because it resulted in “[DELETED]” overseeing “[DELETED]” who in turn would oversee “[DELETED].” AR Tab 7A, Project Advisory Group Technical Evaluation Report, at 61. The second weakness was because BITS’s depiction of its task order organizational structure was also unclear, in particular by [DELETED], and by lacking clarity over the responsibilities of those subject matter experts. Id. at 62.

BITS disputes both weaknesses,<sup>3</sup> arguing that its proposed organizational structure was not unclear. BITS argues that it clearly proposed only one program manager so the other uses of “PM” necessarily referred to project managers, that the “contract manager” was identified elsewhere in the proposal as having a role in BITS’s internal program office, that the contracting officer’s representative was shown having additional interactions in the separate task order-level organizational chart, and that its organizational structure should actually have been assessed a strength under the management approach factor based on the flexibility of its “[DELETED].” Protest at 14-16, 18. With respect to the second weakness, arising from BITS’s depiction of the subject matter experts reporting to the program manager, BITS argues that its subject matter experts had no role in managing performance. As a result, BITS argues that their roles did not require explanation under the management approach factor, and FDA’s assessment of weaknesses was thus unreasonable. Protest at 17.

FDA counters that its evaluation was reasonable in assessing these weaknesses because BITS’s proposal presented organizational structures for the IDIQ contract and the task order that were unclear and ineffective. AR at 29-37. We agree. Our review of the record supports FDA’s conclusions that BITS’s proposal did not set forth a clear management approach for the IDIQ contract and task order, but instead left unclear some of the relationships and roles of some high-level functions, including the program manager, project managers, and subject matter experts. Given that lack of clarity, FDA’s assessment of these two weaknesses was reasonable.

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<sup>3</sup> BITS argues that the narratives for these weaknesses include descriptions of other attributes of its management approach, which BITS contends could not reasonably be deemed weaknesses. We disagree with the argument that this shows the evaluation was unreasonable. See Protester’s Comments & Supp. Protest at 28-29. FDA explains that these descriptive portions of the narrative were simply factual descriptions of the firm’s approach, not negative findings to justify the weakness. AR at 33. Our review of the record confirms that the narratives include descriptions of the protester’s approach merely as background, and make reasonably distinct identifications of the elements of BITS’s approach that the agency viewed as negative. Even though the evaluation record could have been clearer, it nonetheless provides reasonable documentation to support the assessment of the weaknesses in BITS’s proposal.



Next, BITS argues that FDA unreasonably failed to assess multiple strengths for several technical innovations and modernizations that the firm proposed, such as its implementation of [DELETED], its [DELETED], and its use of [DELETED]. Protest at 18; Protester's Comments & Supp. Protest at 27-28. BITS also argues that strengths should also have been assessed for several other beneficial solutions. Protest at 18-19; Protester's Comments & Supp. Protest at 28.

FDA responds that it expressly recognized the aspects of the proposal that the protester argues should have been assessed as strengths, and appropriately recognized its innovations as a strength under the technical approach factor. With respect to the other alleged strengths, FDA responds that the record shows that the agency reasonably identified these aspects of BITS's proposal, but also reasonably determined that none merited the assessment of additional strengths. AR at 39-46.

We agree, based on our review of the record, that FDA reasonably identified the merits of BITS's approach. The record does not support BITS's claim that the agency overlooked strengths for the protester's [DELETED], or its higher level of effort. The record shows that FDA did reasonably assess a strength in BITS's proposal under the technical approach factor for specific innovations proposed by BITS, but does not support BITS's claim that a second strength should also have been assessed under the management approach factor. In all, the record reflects reasonable evaluation judgment, so BITS's contentions that FDA should have assessed additional strengths fails to show that the evaluation was unreasonable. See IAP World Servs., Inc., B-406339.2, Oct. 9, 2012, 2012 CPD ¶ 287 at 10 (protester's arguments that evaluators should have assessed additional strengths reflected mere disagreement with agency evaluation).

Finally, BITS argues that FDA unreasonably failed to raise BITS's rating under the offsite facilities factor after the reevaluation deleted a significant weakness. BITS argues that by maintaining the same acceptable rating FDA failed to take into account the deletion of the significant weakness. Protest at 13; Protester's Comments & Supp. Protest at 20-21.

FDA responds that after the deletion of that significant weakness, the reevaluation reasonably assessed BITS's proposed offsite facility, individually considered each of the five requirements that were specified in the RFP, and concluded that BITS's proposed facility merely met the RFP requirements. AR at 24-25. As a result, FDA maintains that the assessment of BITS's offsite facility as acceptable in the reevaluation was reasonable. AR at 22-26. Again, we agree. To justify a rating of acceptable for the factor, the evaluation narrative identifies how BITS's proposed offsite facilities met each of the RFP requirements, including the requirement for capability to install a direct connection to the FDA network. Even though BITS argues that its rating should have improved once the significant weakness was deleted, the evaluation and source selection judgments must look behind the adjectival ratings, and must reflect the qualitative assessment of the underlying differences among competing offers. Protection Strategies, Inc., B-414573.3, Nov. 9, 2017, 2017 CPD ¶ 348 at 6. In our

view, the reevaluation of BITS's proposed offsite facilities as acceptable is supported by the evaluation record.<sup>4</sup>

#### Technical Evaluation of BA-ZAI Proposal

BITS argues that FDA unreasonably failed to reject BA-ZAI's proposal as unacceptable, or if not, the agency unreasonably disregarded the risk posed by the awardee's staffing level on the basis of its proposed use of software tools and an experienced program manager. Protester's Comments & Supp. Protest at 5-15. In particular, BITS contends that in response to question No. 42, FDA specified that offerors had to use the historic staffing level without incorporating efficiencies resulting from new software, principally an agency application called AgTracker. The firm contends that BA-ZAI expressly based its staffing on efficiency provided by using AgTracker and more generally failed to provide a reasonable justification for a staffing level that was significantly below both the historical level referenced in the answer, and lower than the IGCE. Id. at 5-13; Protester's Supp. Comments at 3-4.

FDA argues that the evaluation properly identified as a weakness the lower staffing level proposed by BA-ZAI for the task order scope of work. The weakness also recognized that the approach would pose some risk that FDA would not obtain satisfactory services as a result. Supp. AR at 5; AR Tab 7A, Project Advisory Group Technical Evaluation Report, at 47-48. However, FDA also concluded that BA-ZAI's proposed use of two software tools to automate planning and tracking of the work, and to manage workloads, workflow, and productivity, combined with the expertise of BA-ZAI's program manager, would overcome the risk. Supp. AR at 6-7. With respect to BA-ZAI's reliance, in part, on the use of AgTracker to reduce aspects of the required level of effort, FDA argues that BITS has misinterpreted the information provided to offerors. Specifically, FDA argues that in answer to question No. 42 and other questions about the level of effort, the agency did not restrict offerors from basing their proposals on the use of AgTracker, and did not require offerors to propose at the historical level of effort. Rather, FDA notes that its answer only addressed the historical workload, and said nothing to restrict the ability of offerors to propose lower staffing levels, including ones based on the use of AgTracker, as BA-ZAI did. Supp. AR at 7-9. FDA therefore maintains that the record shows that its evaluation was reasonable.

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<sup>4</sup> BITS raised other arguments that are not necessary to address in detail in this decision. For example, BITS also argued that FDA applied unstated evaluation criteria by crediting BA-ZAI's proposal under the offsite facilities factor for having an installed cable to FDA in its offsite facility. BITS also argues that FDA should have considered BITS's own proposal of a facility with the capability for such a connection to be installed as equally valuable. Protester's Supp. Comments at 22-23. The RFP expressly required offsite facilities to be capable of having a direct connection to the FDA network and adequate technology until the direct connection was established. In light of that express requirement, we cannot conclude that the evaluation was unreasonable.

Based on our review of the record, we conclude that FDA reasonably evaluated BA-ZAI's proposed staffing plan, which included taking into consideration both the staffing level proposed, and the effectiveness of methods identified by BA-ZAI to manage its performance. On this record, BITS's protest challenging the agency's evaluation represents mere disagreement with the agency's judgments. See, e.g., Hanford Env'tl. Health Found., B-292858.2, B-292858.5, Apr. 7, 2004, 2004 CPD ¶ 164 at 7 (agency reasonably evaluated awardee's lower staffing level as acceptable despite protester's disagreement with that judgment).

BITS's argument asserts that FDA's response to question No. 42 required offerors to propose the current staffing level, and precluded reliance on AgTracker in particular to support a lower staffing level. We recognize that the question expressly referenced the use of AgTracker, and that later questions inquired about the level of effort. However, the FDA response can only reasonably be read as a direction to offerors to compete on the basis of performing the same workload. That is, FDA advised offerors to provide an approach to accomplish the historical workload, and did not restrict the means or staffing level that offerors could propose. The record shows that BA-ZAI identified its use of the historical workload to determine its staffing level. See AR Tab 4C, BA-ZAI Proposal, vol. 2, at 10-11. In evaluating BA-ZAI's proposal, FDA identified the lower staffing level, and recognized both the risk of unsuccessful performance that it posed, as well as the software and the expertise of the firm's management that, in FDA's judgment, would overcome that risk. In our view, these are reasonable evaluation judgments based on the agency's knowledge of the work required. Notably, the evaluation of proposals is a matter within the discretion of the procuring agency because the agency is responsible for defining its needs and the best method of accommodating them. HSG-SKE, B-274769, B-274769.3, Jan. 6, 1997, 97-1 CPD ¶ 20 at 3.

### Realism Analysis of BA-ZAI Pricing

BITS argues that FDA failed to make a reasonable price realism analysis of BA-ZAI's proposal. BITS argues that FDA analyzed BA-ZAI's labor rates by comparing them to average rates for each labor category, and that the analysis showed that the comparison labor rates were nearly all higher than BA-ZAI's, with some comparable labor categories showing large differences--as much as 230 percent of BA-ZAI's rate. Protester's Comments & Supp. Protest at 16-19. BITS also argues that BA-ZAI's low staffing level and labor rates should have been determined to be unrealistic because both were significantly below FDA's IGCE. Protest at 11; Protester's Supp. Comments at 12-14, 19-23.

FDA maintains that it made a reasonable price realism analysis that included calculating the difference between comparable labor rates and BA-ZAI's proposed rates and comparing offerors' proposed levels of effort and total prices for the task order to the IGCE and to each other. FDA argues that it reasonably concluded that even though BA-ZAI's pricing was below the IGCE, it was closer to the prices proposed by two other offerors with acceptable proposals, and that the firm's proposal showed an efficient and

innovative approach, and was supported by the awardee's experience in performing the work as part of the incumbent contractor team. Supp. AR at 6-8, 22-24.

As this Office has often noted, the Federal Acquisition Regulation (FAR) does not use the term "price realism," but provides that an agency may specify the use of cost realism techniques to evaluate fixed-price proposals, as follows:

Cost realism analyses may also be used on competitive fixed-price incentive contracts or, in exceptional cases, on other competitive fixed-price-type contracts when new requirements may not be fully understood by competing offerors, there are quality concerns, or past experience indicates that contractors' proposed costs have resulted in quality or service shortfalls. Results of the analysis may be used in performance risk assessments and responsibility determinations. However, proposals shall be evaluated using the criteria in the solicitation, and the offered prices shall not be adjusted as a result of the analysis.

FAR § 15.404-1(d)(3). A price realism analysis may be used to determine whether prices are too low, such that there may be a risk of poor performance. Where one is performed, our review of the agency's price realism analysis is limited to determining whether it was reasonable and consistent with the terms of the solicitation. Logistics 2020, Inc., B-408543, B-408543.3, Nov. 6, 2013, 2013 CPD ¶ 258 at 8. The nature and extent of the price realism analysis are matters within the agency's discretion. Id.

The record here demonstrates that FDA conducted a sufficient and reasonable price realism analysis of BA-ZAI's proposed price. As discussed above, FDA identified the price difference of each offeror's task order price from the IGCE. FDA recognized that BA-ZAI had both proposed lower staffing levels and lower labor rates, both of which the agency specifically identified. Further, the agency also identified the techniques that BA-ZAI had proposed included specific performance management tools, an experienced program manager, and efficiencies that the firm had identified for performing the work. See AR Tab 7B, Project Advisory Group Business Evaluation Report, at 13-18. The price realism analysis here thus shows that FDA identified the basis for BA-ZAI's lower price, and made a reasonable determination that BA-ZAI had proposed techniques to achieve innovation and efficiency that would be sufficient to support the proposed lower staffing level and labor rates. These conclusions reflect reasonable consideration of the analysis and are consistent with the solicitation, so BITS's challenge to the price realism analysis does not provide a basis to sustain its protest.

The protest is denied.

Thomas H. Armstrong  
General Counsel