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# Decision

**Matter of:** Apogee Engineering, LLC

**File:** B-414829.2; B-414829.3

**Date:** February 21, 2019

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## DIGEST

1. Protest challenging the agency's evaluation of the awardee's non-price proposal is denied where the record shows that evaluation was reasonable and consistent with the terms of the solicitation; however, allegation that the agency's price realism analysis was unreasonable is sustained where the record does not show that the agency considered the awardee's lower pricing in the context of the firm's technical approach.
  2. Protest challenging the agency's selection decision is sustained where the record shows that the source selection authority found the proposals technically equal by simply comparing adjectival ratings without qualitatively assessing the underlying merits of the technical proposals.
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## DECISION

Apogee Engineering, LLC, of Colorado Springs, Colorado, protests the award of a contract to Countermeasures Assessment and Security Experts (CASE), LLC, of New Castle, Delaware, under request for proposals (RFP) No. DTOS5916R00023, issued by the Department of Transportation (DOT), Office of the Secretary of Transportation (OST), for support services. Apogee, the incumbent contractor, argues that the agency unreasonably evaluated the awardee's proposal under the technical and past performance factors, failed to perform a reasonable price realism analysis, and made an unreasonable source selection decision.

We sustain the protest in part and deny it in part.

## BACKGROUND

The RFP, issued as a competitive set-aside under the Small Business Administration's section 8(a) program, contemplated the award of a labor-hour contract with fixed-price labor rates to provide all management, supervision, and labor required to staff OST's Crisis Management Center (CMC). Agency Report (AR), Tab 2E, RFP amend. 007, at 1-2, 29.<sup>1</sup> The RFP sought support for OST's CMC in monitoring the National Transportation System, including reporting incidents, accidents, and threats to the system's integrity. RFP at 5. The contractor will also be responsible for analyzing and assessing information related to the transportation industry. Id.

Award was to be made on a best-value tradeoff basis, considering the following factors: technical capability, staffing/resumes and proposed key personnel, corporate experience/past performance, and price. RFP at 50. The technical capability factor was more important than the staffing/resumes and proposed key personnel factor, which was more important than corporate experience/past performance. Id. The non-price factors, when combined, were more important than price. Id.

In their price<sup>2</sup> proposals, offerors were required to provide their labor rates and identify the labor categories needed to perform the work. RFP at 48. The RFP set forth an estimated level of effort, but noted that offerors might deviate from this estimate as appropriate. Id. Price proposals were to be evaluated to determine the reasonableness of proposed prices, and to "assess realism and probable cost" to the agency. Id. at 52. The RFP explained that the purpose of this analysis was to determine if the proposed price reasonably reflected that the offeror understood and addressed the RFP's requirements. Id.

The agency received nine proposals in response to the solicitation. Combined Contracting Officer's Statement/Memorandum of Law (COS/MOL), at 4. After the technical evaluation panel (TEP) performed an initial evaluation, the agency established a competitive range of all offerors, entered into negotiations, solicited, obtained, and evaluated revised proposals, with the following relevant results:

	<b>Apogee</b>	<b>CASE</b>
<b>Technical Capability</b>	Exceptional	Exceptional
<b>Staffing/Resumes</b>	Exceptional	Exceptional
<b>Corporate Experience/Past Performance</b>	Exceptional	Exceptional
<b>Price</b>	\$5,520,945	\$5,027,206

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<sup>1</sup>The agency subsequently reissued the RFP in its entirety via Amendment 0007. All citations are to the final conformed version.

<sup>2</sup> The RFP uses the terms "price" and "cost" interchangeably.

AR, Tab 10, Award Summary, at 5, 15.

The agency assigned several strengths, and no weaknesses, to the proposals of both Apogee and CASE. AR, Tab 13, TEP Consensus Report, at 8-13. A third proposal also received exceptional ratings under each technical factor. AR, Tab 10, Award Summary, at 17. The Contracting Officer (CO), acting as the source selection authority (SSA), noted that CASE offered the lowest-priced proposal of the three proposals rated exceptional, and submitted the second-lowest priced proposal received. Id. The SSA concluded that CASE's proposal, with exceptional ratings under all technical factors, coupled with its "competitive" price, represented the best value to the agency. Id. On September 5, 2018, the agency notified unsuccessful offerors that it would award the contract to CASE. AR, Tab 18, Agency Communications with Apogee, at 1-2. On October 4, the agency provided Apogee with a debriefing.

On October 11, the agency sent a notice to offerors of its intent to rescind the award to CASE due to the firm's lack of a facility clearance. Id. at 3. On October 18, the agency sent a follow up communication to offerors explaining that it "was the determination that the omission of the need for the facilities clearance was an internal error and all proposals were evaluated correctly against" the RFP's evaluation criteria, further stating that the agency would "continue the source selection as originally intended." Id. at 4. On October 31, the agency sent another communication indicating that it would reinstate the award to CASE. Id. at 6. This protest followed.

## DISCUSSION

Apogee challenges the agency's evaluation of CASE's proposal under the technical capability and corporate experience/past performance factors. Apogee also argues that the agency failed to perform a reasonable price realism analysis. Finally, Apogee asserts that the agency made a flawed selection decision. For the reasons that follow, we deny Apogee's challenge to the agency's evaluation of proposals under the technical capability and past performance factors. We sustain Apogee's challenges to the agency's price realism analysis and source selection decision.

### Timeliness

As an initial matter, the agency argues that we should dismiss Apogee's protest as untimely because Apogee knew that the agency "intended to go forth with the award to CASE" on October 18, but did not file its protest until November 13.<sup>3</sup> COS/MOL at 6. We disagree.

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<sup>3</sup> Apogee submitted its protest after 5:30 p.m. on Friday, November 9. A document is deemed filed when it is received by our Office by 5:30 p.m. 4 C.F.R. § 21.0(g). Accordingly, Apogee's protest is deemed filed the next day our Office was open, which was Tuesday, November 13, as November 10 was a Saturday, and Monday, November 12 was a Federal holiday. 4 C.F.R. § 21.0(d).

Apogee's protest allegations, properly construed, go to the evaluation of proposals and award decision. Any protest of the agency's evaluation judgments prior to award would have been dismissed as premature. See 360 IT Integrated Solutions; VariQ Corp., B-414650.19, B-414650.20, Oct. 15, 2018, 2018 CPD ¶ 359 at 10 (citing Computer Assocs. Int'l, Inc., B-292077.2, Sept. 4, 2003, 2003 CPD ¶ 157 at 4). While the notice sent to Apogee on October 18 states that the agency evaluated proposals correctly against the RFP's evaluation criteria, its additional statement that it would "continue the source selection as originally intended" does not clearly indicate that award had been made to CASE. Rather, we read it as suggesting that a final source selection decision had yet to be made. Additionally, while the agency has provided a declaration from the CO asserting that the award had never been rescinded, Supp. AR, Exhibit 2, Declaration of CO, at 2, the fact remains that the agency did not clearly state that award had been made to CASE until October 31. AR, Tab 18, Agency Communications with Apogee, at 6.<sup>4</sup> We therefore find that Apogee was not reasonably on notice that the award had been made until October 31, rendering its protest timely filed on November 13. See 4 C.F.R. § 21.0(d); § 21.2(a)(2).

### Technical Capability

Apogee argues that the agency unreasonably assigned CASE an exceptional<sup>5</sup> rating under the technical capability factor. Protest at 6. Apogee's challenge is premised on CASE's lack of a facility clearance. Apogee argues that "[i]nherent in an offeror's ability to demonstrate the 'relevance and extent' of its capability in handling classified documents is . . . an active facility clearance." Id. Apogee further contends that the agency impermissibly allowed CASE to demonstrate its capacity to handle classified information through the use of its proposed subcontractor. Comments and Supp. Protest at 6-8.

Under the technical capability factor, the agency was to assess how well offerors would perform the various requirements delineated in the statement of work (SOW). RFP

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<sup>4</sup> We also note that, despite the agency's continued assertions that the award had remained in place, its October 31 notice to Apogee states that the agency "will reinstate the award" to CASE. AR, Tab 18, Agency Communications with Apogee, at 6.

<sup>5</sup> An exceptional rating was defined as:

Proposal greatly exceeds stated requirements, as reflected through an innovative, comprehensive, outstanding approach. The response is complete in terms of the basic content and level of information the government seeks for evaluation. There is a high probability of success and negligible risk that this offeror would fail to meet the quantity, quality, and schedule requirements. There are no deficiencies or weaknesses.

AR, Tab 13, TEP Report, at 4.

at 51. Relevant here, the RFP provided that offerors would be evaluated on their ability to handle classified and unclassified data. Id. The RFP stated that the contractor would require access to classified information while performing the contract and required all personnel permanently assigned to the CMC to hold a top secret clearance and be eligible to review sensitive compartmented information. Id. at 22.

In reviewing CASE's proposal under this factor, the agency found that the proposal "clearly illustrated" that CASE understood the requirements of the solicitation and was "highly capable" of performing DOT's CMC support mission. AR, Tab 15, Technical Evaluation of CASE's Proposal, at 2. The TEP further noted that the CASE team, i.e., CASE and its subcontractor, has a 20 year track record of safeguarding and protecting classified and unclassified materials and equipment in accordance with the government's standards. Id. In light of these findings, the agency assigned CASE's proposal an exceptional rating. Id.

Apogee asserts that the CASE proposal "does [not] discuss CASE's experience in or ability to handle classified documents," which indicates that the agency could not have considered whether CASE demonstrated capability and experience handling classified documents, as was required by the solicitation. Comments & Supp. Protest at 5-6. Apogee further argues that CASE's proposal could not have greatly exceeded the RFP's requirements, as was needed to merit an exceptional rating, because CASE has no experience itself handling classified information. Id. at 7.

An agency's evaluation of technical proposals is primarily the responsibility of the contracting agency, since the agency is responsible for defining its needs and identifying the best method of accommodating them. Wyle Labs., Inc., B-311123, Apr. 29, 2008, 2009 CPD ¶ 96 at 5-6. A protester's disagreement with an agency's judgment in evaluating proposals is insufficient to establish that it acted unreasonably. VT Griffin Servs., Inc., B-299869.2, Nov. 10, 2008, 2008 CPD ¶ 219 at 4.

Based on our review of the record, we have no basis to question the agency's evaluation of CASE's proposal here. First, the RFP did not require that offerors possess a current facility clearance. It follows that the underlying premise of this protest basis--that a facility clearance was necessarily required to achieve an exceptional rating--lacks merit. Moreover, the agency represents, and the record confirms, that CASE's technical approach demonstrated the required ability to handle classified material by subcontracting with a firm that currently holds a facility clearance and has substantial experience handling classified information. COS/MOL at 13; AR, Tab 6, CASE's Technical Proposal, at 6. An agency may properly consider a subcontractor's capabilities and experience under relevant evaluation factors, where such consideration is not otherwise prohibited by the terms of the solicitation. See TRW Inc.; Systems Research and Applications Corp., B-260968 et al., Aug. 14, 1995, 95-2 CPD ¶ 101

at 8 n.12. Accordingly, our review of the record provides us with no basis to question the agency's evaluation of CASE's proposal under the technical factor.<sup>6</sup>

#### Corporate Experience/Past Performance

Apogee also challenges the agency's evaluation of the CASE proposal under the corporate experience/past performance factor, arguing that CASE does not have sufficient experience handling classified information to reasonably warrant an exceptional rating. Id. at 7-8.

An agency's evaluation of past performance, which includes 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 assessment is unreasonable or inconsistent with the solicitation criteria. WingGate Travel, Inc., B-412921, July 1, 2016, 2016 CPD ¶ 179 at 4; Metropolitan Life Ins. Co., B-412717, B-412717.2, May 13, 2016, 2016 CPD ¶ 132 at 14. 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 the agency's rationale is adequately documented. DynCorp Int'l, LLC, B-412451, B-412451.2, Feb. 16, 2016, 2016 CPD ¶ 75 at 14; Falcon Env'tl. Servs., Inc., B-402670, B-402670.2, July 6, 2010, 2010 CPD ¶ 160 at 7.

Under the corporate experience/past performance factor, the agency was to evaluate experience conducting the work required by the solicitation. RFP at 51. To facilitate the agency's assessment, offerors were required to provide a list of recent projects completed within the last five years that were similar to the effort described. Id. at 47. In addition, offerors were required to provide completed past performance questionnaires involving the performance of similar or related services. Id.

The agency assigned CASE's proposal an exceptional rating, noting that it provided five past performance examples, all of which highly rated the CASE team's performance. AR, Tab 15, Technical Evaluation of CASE's Proposal, at 11. The record shows that

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<sup>6</sup> Apogee also argues that it was unreasonable for the agency to fail to consider CASE's lack of experience handling classified information in assigning it an exceptional rating, where CASE represented that it would perform 51 percent of the overall effort. Comments & Supp. Protest at 7. We disagree. The handling of classified information was just one of many performance requirements to be assessed here. The solicitation also required proposals to demonstrate capability addressing several requirements, including providing effective year-round monitoring of the nation's transportation system and providing immediate analysis of emergency incidents. RFP, SOW, at 6. Consequently, even if CASE's proposed subcontractor handles the majority of responsibility related to the handling of classified information, this challenge fails to identify an inconsistency between the evaluation and CASE's representation that it will perform the majority of the total effort contemplated.

the agency found that, based on the CASE team's past performance, "it is evident that this contractor has met or exceeded" their customer's requirements. Id. Additionally, the agency points out that three of the five past contracts performed by the CASE team required a clearance at the top secret or higher level. COS/MOL at 15 (citing AR, Tab 6, CASE's Technical Proposal, at 15).

Apogee argues that it was improper for the agency to consider the experience of CASE's subcontractor in its evaluation of CASE's past performance. Comments at 8-9. To support its argument, Apogee cites to our decision in Quality Servs. Int'l, LLC, B-410156 et al. Nov. 3, 2014, 2014 CPD ¶ 330 at 1, where our Office sustained a protest because the agency contravened the terms of the solicitation by improperly crediting the awardee with the experience of its proposed subcontractor. Id. at 9. Apogee further argues that because CASE will be performing a majority of the work as a prime contractor, it was unreasonable for the agency to rely exclusively on CASE's proposed subcontractor for its experience handling classified information. Id.

We have no basis to object to the agency's consideration of CASE's proposed subcontractor in its assessment of past performance. An agency's consideration of a proposed subcontractor's past performance is appropriate where, as here, the solicitation neither prohibits nor mentions the evaluation of such information. SIMMECT Training Solutions, B-406819, Aug. 20, 2012, 2012 CPD ¶ 238 at 5-6; see Singleton Enterprises, B-298576, Oct. 30, 2006, 2006 CPD ¶ 157 at 4. In this regard, Federal Acquisition Regulation (FAR) § 15.305(a)(2)(iii) provides that an agency's past performance evaluation "should take into account past performance [of] . . . subcontractors that will perform major or critical aspects of the requirement."

Further, Apogee's reliance on Quality Services International LLC is misplaced. In that decision, our Office found that the agency improperly credited the awardee with the experience of its proposed joint venture partner because the RFP expressly required that the offeror must demonstrate the desired experience as either the prime contractor or joint venture. Id. This RFP did not limit CASE's ability to demonstrate experience to instances where CASE itself served as the prime contractor.

Moreover, the record demonstrates that the agency reasonably, and consistent with the terms of the solicitation, assigned CASE an exceptional rating. Again, the agency's review of CASE's past performance projects showed that they all rated the CASE team's performance highly, leading the agency to conclude that the "CASE team" has "over 29 cumulative years of experience identifying, collecting, processing, and disseminating" physical and cyber threat warning and incident reporting in the transportation sector. AR, Tab 15, Technical Evaluation of CASE's Proposal, at 11. Accordingly, on this record, we have no basis to object to the agency's evaluation of CASE's proposal under the corporate experience/past performance factor.

## Price Realism

Apogee argues that the agency failed to perform a reasonable price realism analysis of CASE's proposal. In this regard, Apogee argues that CASE's price was too low to accomplish its proposed technical approach. Comments & Supp. Protest at 10. For the reasons that follow, we sustain this aspect of Apogee's protest.

In addition to assessing price proposals for reasonableness, the RFP provided that proposals would be assessed for realism, explaining that the purpose of this analysis was to determine if the offeror's proposed prices reflected an understanding of, and addressed the RFP's requirements. RFP at 52. The record shows that CASE's proposed price was 22 percent lower than the independent government cost estimate (IGCE). AR, Tab 10, Award Summary, at 18. In evaluating CASE's pricing, the agency found that "while significantly below the IGCE, CASE's price proposal was not an outlier among all [price] proposals, and the Technical Evaluation Panel separately assessed each offeror's cost proposal for price realism and reasonableness." Id. The agency specifically found that CASE would provide discounted labor rates and its proposed labor costs would be held constant for the base year and option year 1, and escalated at a rate of 1 percent for option years 2-4. AR, Tab 16, Cost Evaluation, at 6. The agency also found CASE's labor rates "to be reasonable," further concluding that CASE's price proposal was "reasonable." Id.

Apogee contends that the record demonstrates that the agency failed to consider whether CASE's price was too low to accomplish its proposed technical approach, and simply analyzed prices to determine whether CASE's price was too high, *i.e.*, whether CASE's price was reasonable. Comments on Supp. AR at 8-9. In particular, Apogee notes that in its technical proposal CASE proposed to maximize the retention of incumbent personnel to ensure a "seamless transition" that featured the "lowest possible risk of disruption," but argues it will be unable to do so at its low proposed labor rates, which are lower than Apogee's for four of the five contemplated labor categories. Id. at 12 (citing AR, Tab 6, CASE's Technical Proposal, at Annex A, Transition Plan, at 1). Apogee also alleges CASE will not be able to retain its highly-qualified incumbent personnel due to its low escalation rates, contrary to the claim in its proposal that its benefits packages and opportunities for growth will help attract and retain qualified personnel. Id. (citing AR, Tab 6, CASE's Technical Proposal, at Annex A, 3).

Where, as here, a solicitation anticipates award of a labor hours contract with fixed-price labor rates, there is no requirement that an agency conduct a price or cost realism analysis, in the absence of a solicitation provision requiring such an analysis. Lynxnet, LLC, B-409791, B-409791.2, Aug. 4, 2014, 2014 CPD ¶ 233 at 4; see Ball Aerospace & Tech. Corp., B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 8 n.7. An agency may, however, at its discretion, provide for the use of a price realism analysis in a solicitation for the award of a fixed-price contract, or a fixed-price portion of a contract, to assess the risk inherent in an offeror's proposal. Puglia Eng'g of Cal., Inc., B-297413 et al., Jan. 20, 2006, 2006 CPD ¶ 33 at 6; Star Mountain, Inc., B-285883, Oct. 25, 2000, 2000 CPD ¶ 189 at 2. Our Office has explained that the depth of an agency's price realism



analysis is a matter within the sound exercise of the agency's discretion and our review of a price realism analysis is limited to determining whether it was reasonable and consistent with the terms of the solicitation. HBC Mgmt. Servs., Inc., B-408885.2, May 9, 2014, 2014 CPD ¶ 149 at 5; Smiths Detection, Inc.; Am. Sci. & Eng'g, Inc., B-402168.4 et al., Feb. 9, 2011, 2011 CPD ¶ 39 at 17. However, where an agency fails to document its price realism evaluation, it bears the risk that there may not be an adequate supporting rationale in the record for us to conclude that the agency had a reasonable basis for its source selection decision. General Dynamics One Source, LLC; Unisys Corp., B-400340.5, B-400340.6, Jan. 20, 2010, 2010 CPD ¶ 45 at 13-14.

In response to Apogee's claims, the agency argues that it performed a detailed evaluation of CASE's labor rates, categories, and fees, and that the TEP report "very clearly" documented its assessment that CASE understood the requirements and could perform the work. Supp. AR at 7. The agency also provided a supplemental declaration from the CO explaining that while the evaluation did not utilize the word "realism," the agency characterized CASE's prices as "reasonable," to mean both that CASE's price was neither too high, nor unrealistically low. Supp. AR, Exhibit 2, Declaration of CO, at 1. The CO further explains that the agency assessed the realism of CASE's price by performing a comparison of its price to those of other offerors' proposals, concluding that CASE's price was not an "outlier." Id. In a supplemental declaration provided by the TEP, the members further state that they evaluated CASE's price in conjunction with its technical proposal and determined that CASE would be able to perform the contract at its proposed price. Supp. AR, Agency Exhibit 3, Declaration of Technical and Cost Evaluation Panel, at 2.

We find that the record fails to provide a basis for our Office to conclude that the agency reasonably evaluated the realism of CASE's pricing. As our Office has stated, an agency's assessment of price realism requires a consideration of the offeror's technical approach. See, e.g., GiaCare and MedTrust JV, LLC, B-407966.4, Nov. 2, 2016, 2016 CPD ¶ 321 at 9; Solers Inc., B-409079, B-409079.2, Jan. 27, 2014, 2014 CPD ¶ 74 at 7. In this respect, we have stated that the comparison of offerors' price proposals in the context of a price realism analysis is an inherently limited methodology given the requirement to consider each offeror's unique technical approach. GiaCare and MedTrust JV, LLC, supra; see Health Net Fed. Servs., LLC, B-401652.3, B-401652.5, Nov. 4, 2009, 2009 CPD ¶ 220 at 21.

The contemporaneous record contains no meaningful consideration of the agency's findings with respect to CASE's pricing against its proposed technical approach. The record does not show that the agency considered whether CASE's discounted labor rates would introduce risk to its proposed ability to capture incumbent employees. Additionally, the agency's mention of CASE's low escalation rates as a "cost savings" measure fails to account for potential risks to retention, despite CASE's claims to the contrary. The agency's post-comments assertion that it reviewed CASE's price proposal in conjunction with its technical proposal is not borne out by the contemporaneous record.

Where a solicitation provides for the evaluation of price realism, the agency must conduct such an evaluation in a manner that is reasonable. GiaCare and MedTrust JV, LLC, supra. In this case, while the solicitation provided for a price realism evaluation, the contemporaneous record contains nothing documenting an assessment of CASE's proposed pricing in conjunction with the firm's technical approach. While the record does show that the agency was aware of CASE's low price, the record suggests that the agency was only concerned with whether CASE's price was reasonable, *i.e.*, whether it was too high. Although the agency has provided post-comment assertions on the matter, it has failed to establish that it performed an adequate price realism evaluation. Accordingly, we sustain Apogee's protest regarding the evaluation of price realism. See Valor Healthcare, Inc., B-412960, B-412960.2, July 15, 2016, 2016 CPD ¶ 206 at 8.

### Source Selection Decision

Finally, Apogee challenges the agency's source selection decision, alleging that the best-value tradeoff determination was unreasonable insofar as it relied on the allegedly flawed evaluation above.<sup>7</sup> Comments & Supp. Protest at 14. Apogee also asserts that the agency made award based merely on its findings that proposals were technically equal, without actually assessing the underlying merits of proposals. Id. at 14-16.

As noted above, the agency assigned several strengths, and no weaknesses, to the proposals of both Apogee and CASE. AR, Tab 13, TEP Consensus Report, at 8-13. The nature of these strengths differed between the offerors. In selecting CASE as the proposal representing the best value, the SSA stated that "CASE's proposal was one of three that received a rating of 'Exceptional' under each technical evaluation factor" and that its proposal was the lowest-priced proposal of the three to receive all exceptional ratings. AR, Tab 10, Award Summary, at 17. The SSA stated that "Apogee and CASE scored equally well technically" but because Apogee's price was 10 percent higher than CASE's, Apogee's proposal did not represent the best value. Id. at 16.

While an agency is not obligated to extensively document every consideration made in its tradeoff decision, it is required to adequately explain and document the basis for its source selection determination. VariQ Corp., B-414650.11, B-414650.15, May 30, 2018, 2018 CPD ¶ 199 at 11. An agency that fails to adequately document its source selection decision bears the risk that our Office may be unable to determine whether the decision was proper. Arctic Slope Tech. Servs., Inc., B-411776, B-411776.2, Oct. 20, 2015, 2017 CPD ¶ 6 at 5.

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<sup>7</sup> As detailed above, the record does not support Apogee's challenges to the agency's evaluation of CASE's technical proposal. Accordingly, we find no merit to Apogee's objections to the agency's selection decision, insofar as they are based upon those alleged errors.

Moreover, our Office has consistently explained that evaluation ratings are merely guides for intelligent decision-making in the procurement process; the evaluation of proposals and consideration of their relative merit should be based upon a qualitative assessment of proposals consistent with the solicitation's evaluation scheme. Highmark Medicare Servs., Inc. et al., B-401062.5 et al., Oct. 29, 2010, 2010 CPD ¶ 285 at 19. It follows that the adjectival ratings (or the number of strengths) assigned to proposals are not dispositive metrics for an agency to express a proposal's merit. See enrGies, Inc., B-408609.9, May 21, 2014, 2014 CPD ¶ 158 at 8. What is important is not the scores themselves, but the underlying substantive merits of the proposals as embodied in, or reflected by, the ratings. Id. While agencies may find that offerors' proposals are technically equal, the selection official must explain the basis for why proposals are considered technically equal. See Arctic Slope Tech. Servs., Inc., supra, at 7.

The agency is correct in stating that, as between two technically equal proposals, price may properly become the determining factor; the agency is also correct in noting that our Office has stated that a documented tradeoff determination is not required where the agency selects the lowest-priced proposal among proposals it has reasonably determined to be equal technically.<sup>8</sup> However, the factual predicate underlying these principles is that the agency has reasonably determined that the two proposals are technically equal based on a documented qualitative assessment of proposals. See Arctic Slope Tech. Servs., Inc., supra, at 7-9.

In this regard, the record here is devoid of any qualitative discussion of the underlying merits of the proposals and why they should have been considered technically equal. The mere fact that both proposals received exceptional ratings under each technical factor does not mean the agency has reasonably determined that two proposals are of equal technical capability. See ERC Inc., B-407297, B-407297.2, Nov. 19, 2012, 2012 CPD ¶ 321 at 6. Despite the agency's assignment of several strengths to each proposal, the record does not demonstrate that the selection official meaningfully looked behind the adjectival ratings, or considered the qualitative value of the offeror's proposals, to determine that Apogee and CASE's proposals were technically equal. Accordingly, we sustain this protest ground. Cf. ERC Inc., supra, at 3-5, 7 (detailing an agency's robust qualitative assessment of proposals in which the agency properly looked behind the assigned adjectival ratings assigned to conclude that proposals were essentially equal under solicitation's technical factor).

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<sup>8</sup> When evaluating equally rated proposals, price may properly become the basis for distinguishing between proposals in determining which proposal represents the best-value. Synergetics, Inc., B-299904, Sept. 14, 2007, 2007 CPD ¶ 168 at 7. A documented tradeoff determination is not required where the agency selects the lowest-priced proposal among proposals it has reasonably determined to be technically equal. Rotech Healthcare, Inc., B-410203, B-410203.3, Nov. 5 2014, 2014 CPD ¶ 333 at 10.

## RECOMMENDATION

We recommend that the agency perform and document a price realism evaluation, as well as a new source selection decision, in accordance with the terms of the solicitation and this decision. If, in making the new source selection decision, the agency determines that a firm other than CASE represents the best value, we further recommend that the agency terminate the contract awarded for the convenience of the government and make award to the firm selected, if otherwise proper. We also recommend that the protester be reimbursed its reasonable costs of filing and pursuing the protest, including attorneys' fees. 4 C.F.R. § 21.8(d). The protester's certified claim for such costs, detailing the time expended and costs incurred, must be submitted directly to the agency within 60 days of receipt of this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained in part and denied in part.

Thomas H. Armstrong  
General Counsel