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Decision

Matter of: Sigmatech, Inc.

File: B-415028.3; B-415028.4

Date: September 11, 2018

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DIGEST

1. Protest challenging the evaluation of vendors' technical quotations is denied where the evaluation was consistent with the terms of the solicitation and was otherwise reasonable.

2. Protest alleging that the agency evaluated vendors on an unequal basis is dismissed as untimely where the protester raised supplemental arguments more than 10 days after receiving a detailed explanation of the agency's assessment of strengths for the awardee's quotation.

3. Protest alleging that the award was tainted by a disqualifying conflict of interest is denied where the agency reasonably concluded that no such conflict exists.

DECISION

Sigmatech, Inc., of Huntsville, Alabama, protests the issuance of a task order to DigiFlight, Inc., also of Huntsville, Alabama, by the Department of the Army, Army Materiel Command, under task order request for quotations (TORFQ) No. 2015P-06, for support for the Security Assistance Management Directorate (SAMD). The protester argues that the agency unreasonably and unequally evaluated the vendors' technical quotations, failed to reasonably assess whether the awardee had a disqualifying organizational conflict of interest (OCI), and made an unreasonable award decision.

We deny in part and dismiss in part the protest.

BACKGROUND

The Army issued the solicitation on July 10, 2017, seeking quotations to provide services in support of the SAMD, using the Federal Supply Schedule (FSS) procedures of Federal Acquisition Regulation (FAR) subpart 8.4.¹ The SAMD supports the procurement, delivery and sustainment of weapon systems entered into via the Foreign Military Sales (FMS) process between the U.S. government and foreign governments. Agency Report (AR), Tab 3, Performance Work Statement (PWS), at 1. The competition was limited to vendors that have entered into blanket purchase agreements (BPAs)² with the Army under the FSS. AR, Tab 5, TORFQ Amend. 1, at 1-2. The awardee will be required to provide “independent evaluation, assessments and analysis . . . necessary to monitor, coordinate and integrate FMS programs for our foreign allies.” PWS at 1.

The solicitation was initially issued as a small business set-aside. Following an unsuccessful agency-level protest, Sigmatech filed a pre-award protest with our Office (B-415028, B-415028.2) on August 2, 2017, challenging the set-aside. On August 25, the agency advised our Office that it would take corrective action in response to the protest by amending or reissuing the solicitation on an unrestricted basis. Sigmatech, Inc., B-415028, B-415028.2, Sept. 1, 2017, at 1 (unpublished decision). Based on the agency’s notice, we dismissed the protest on September 1. Id. The agency reissued the solicitation on an unrestricted basis on September 21 and requested revised quotations.

The TORFQ anticipated issuance of a time-and-materials task order, with fixed labor rates, with a 1-year base period, and four 1-year options. TORFQ at 5. The solicitation advised vendors that quotations would be evaluated on the basis of price and the following two non-price factors: (1) technical expertise, and (2) risk mitigation and management. AR, Tab 4, Evaluation Criteria, at 1-2. For purposes of award, the technical expertise and risk mitigation factors were of equal importance, and each non-price factor was more important than price. Id. at 1.

The Army received revised quotations from three vendors, including Sigmatech and DigiFlight, by the closing date of October 23. AR, Tab 11, Award Decision, at 1. The agency’s evaluation of the protester’s and awardee’s quotations was as follows:

¹ Although firms who compete for orders under the FSS are generally referred to as “vendors” that submit “quotations,” the record here uses the terms “offerors” and “vendors,” and “quotations” and “proposals,” interchangeably.

² These BPAs are known as the U.S. Army Aviation and Missile Command Expedited Professional Engineering Services and Support program agreements. Contracting Officer’s Statement/Memorandum of Law (COS/MOL) at 3.

	Sigmatech	DigiFlight
Technical Expertise	Good	Outstanding
Risk Mitigation and Management	Outstanding	Outstanding
Price	\$61,454,297	\$63,001,142

Id. at 22.

The contracting officer, who was also the source selection authority for this procurement, found that DigiFlight's quotation was superior to Sigmatech's under both of the non-price evaluation factors. Id. at 27. The contracting office concluded that the strengths assigned to the awardee's quotation "exceed[] specified performance capability requirements in a way that will be advantageous to the Government during contract performance. . . [and] support the Government's payment of a higher price premium and will provide the Government the best value." Id. The agency selected DigiFlight for issuance of the task order on June 23, and provided debriefings to the vendors on the same day.³ This protest followed.

DISCUSSION

Sigmatech raises four primary arguments: (1) the agency unreasonably and unequally evaluated its quotation under the non-price evaluation factors; (2) the agency unreasonably evaluated DigiFlight's quotation with regard to its experience under the technical expertise factor; (3) the agency failed to reasonably evaluate whether DigiFlight had a disqualifying conflict of interest; and (4) the agency's award decision contained a factual error that distinguished between the vendors' quotations based on features whose benefits were not adequately explained. For the reasons discussed below, we find no basis to sustain the protest.⁴

Where, as here, an agency issues a solicitation to FSS vendors under the provisions of FAR subpart 8.4 and conducts a competition for the issuance of an order, our Office will not reevaluate the quotations; rather, we review the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. Digital Solutions, Inc., B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. DEI Consulting, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2.

³ The agency provided the vendors with a "brief explanation of the basis for the award decision," pursuant to FAR § 8.405-2(d). For convenience, we refer to this statement as a debriefing.

⁴ Sigmatech also raises other collateral arguments. Although we do not address every argument, we have reviewed them all and find that none provides a basis to sustain the protest.

Evaluation of Sigmatech's Quotation

Sigmattech argues that the Army failed to follow the terms of the solicitation in assigning strengths and weaknesses to its quotation, and evaluated the protester's and awardee's quotations unequally. For the reasons discussed below, we find no merit to the protester's challenges to the agency's evaluation of Sigmatech's quotation, and conclude that the protester's arguments regarding unequal treatment are untimely.

The TORFQ provided that the agency would assign strengths, weaknesses, or deficiencies to quotations. See AR, Tab 4, Evaluation Criteria, at 5. The protester contends that the agency's evaluation of its quotation under the technical expertise factor improperly included "comments" regarding aspects of the quotation that were not categorized as strengths, weaknesses, or deficiencies. For example, the agency's evaluation of Sigmatech's quotation included the following comment: "The Offeror's experience with various Foreign Military Sales (FMS) financial systems is useful to SAMD in performing financial analysis and providing input and recommendations." AR, Tab 9, Sigmatech Evaluation Summary, at 2.

The Army argues that the comments regarding Sigmatech's quotation, as well as comments made in connection with other vendors' quotations, reflected matters that the evaluators wished to bring to the contracting officer's attention, but did not merit the assignment of strengths, weaknesses, or deficiencies. COS/MOL at 1, 7-8. The agency contends that these comments did not violate the terms of the solicitation.

In effect, the protester's interpretation of the TORFQ would prohibit evaluators from including any observations about a vendor's quotation unless it was categorized as a strength, weakness, or deficiency. The protester, however, does not establish that the terms of the solicitation, or any applicable procurement law or regulation, prohibited the agency from discussing or describing features of a vendor's quotation that did not meet the TORFQ's definition of a strength, weakness, or deficiency. We therefore find no merit to the protester's argument that the inclusion of "comments" in the evaluation of vendors' quotations was improper.

As a related matter, Sigmatech argues that three of the comments made by the evaluators regarding its quotation should have been considered strengths. We address as a representative example the comment, set forth above, concerning Sigmatech's experience with FMS financial systems. The protester argues that the comment stated that its experience with FMS financial systems would be "useful" to the agency and that, under the terms of the TORFQ, this comment should have been considered a strength. See AR, Tab 9, Sigmatech Evaluation Summary, at 2.

Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions. KDH Def. Sys., Inc., B-412951, July 12, 2016, 2016 CPD ¶ 182 at 4. To be reasonable, and therefore valid, an interpretation must be consistent

with such a reading. McLaurin Gen. Maint., Inc., B-411443.2, B-411443.3, Jan. 14, 2016, 2016 CPD ¶ 41 at 3.

The TORFQ's definition of a strength was as follows: "[A]n aspect of an offeror's quote that has merit or exceeds specified performance capability requirements in a way that will be advantageous to the Government during contract performance." AR, Tab 4, Evaluation Criteria, at 5. With regard to the comment describing Sigmatech's experience with FMS financial systems as "useful," the agency states that the evaluation was intended to indicate that this aspect of the quotation was positive, but did not rise to the level of a strength, as defined in the TORFQ. See COS/MOL at 9, 32. The Army states that the use of the term "useful" was not intended to be synonymous with the term "merit," or to indicate that the protester's quotation exceeded the specified performance capabilities in a manner that will be advantageous to the government. Id. at 33. In short, the agency states that it did not intend to assign a strength to the protester's quotation based on experience with FMS financial systems. Id. at 32-33.

We find that the agency's use of the term "useful" does not demonstrate that the aspect of the protester's quotation discussed in this comment met the TORFQ's standard for a strength, i.e., a feature that has merit or exceeds specified performance capability requirements in a manner that will be advantageous to the government. Similarly, we find no merit to the protester's argument that the RFQ required any positive aspect of a proposal to be deemed to have "merit" and assigned a strength. To the extent the protester argues that the agency should have assigned a strength based on this aspect of its quotation, the protester's disagreement with the agency's judgment does not provide a basis to sustain the protest. See DEI Consulting, supra.

Sigmatech also argues that the Army evaluated the protester's and awardee's quotations on an unequal basis. The protester contends that the agency assigned DigiFlight's quotation strengths for features that Sigmatech also offered. The agency and intervenor argue that these arguments are untimely. We agree.

Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2), require protests of matters other than the terms of solicitations to be filed no later than 10 days after a protester knows, or should know of a basis for protest. Where a protester receives documents prior to the agency's production of the agency report, the protester must file all supplemental arguments arising from those early-produced documents within 10 days. See 4 C.F.R. § 21.2(a)(2); Savannah River Tech. & Remediation, LLC; Fluor Westinghouse Liquid Waste Servs., LLC, B-415637 et al., Feb. 8, 2018, 2018 CPD ¶ 70 at 6 (protest arguments are untimely when raised more than 10 days after the agency's voluntary production of early documents).

Here, the Army filed a request to dismiss the initial protest (B-415028.3) on June 18, 2018, arguing that Sigmatech failed to state valid bases of protest. The protester and intervenor filed responses to the agency's request on June 21. The intervenor's response, which was provided to the protester, included as an attachment the debriefing provided by the agency to DigiFlight, which identified all of the strengths assigned to its

quotation. Intervenor's Response to Request for Dismissal, June 21, 2018, Exh. 1, Explanation of Basis of Award Decision.⁵ Our Office denied the request for dismissal on June 26, and the Army filed its report on the protest on July 5. On July 16, Sigmatech filed its comments on the agency report, along with a supplemental protest (B-415028.4) arguing that the agency's evaluation treated the protester and awardee unequally because it assigned three strengths to the awardee's quotation based on features that were also included in the protester's quotation. Supp. Protest, July 16, 2018, at 3-8.

The debriefing provided by the intervenor to the protester on June 21 listed all of the strengths assigned by the agency to the awardee's quotation. AR, Tab 13, Explanation of Basis of Award Decision, at 1-5. To the extent the protester believed that it should have been assigned the same strengths, it had all the information it needed--the agency's evaluation and the protester's own quotation--to file the protest upon receipt of the intervenor's response to the agency's request for dismissal. On this record, we conclude that the protester's supplemental arguments concerning the assignment of strengths to the awardee's quotation are untimely because they were not filed within 10 days of the protester's receipt of the awardee's debriefing, or in this case, July 2.⁶ See Savannah River Tech. & Remediation, LLC; Fluor Westinghouse Liquid Waste Servs., LLC, supra. These arguments are therefore dismissed. 4 C.F.R. § 21.2(a)(2).

Evaluation of DigiFlight's Experience

Next, Sigmatech argues that the Army unreasonably evaluated DigiFlight's quotation under the technical expertise evaluation factor with regard to the awardee's experience. Specifically, the protester argues that the agency's evaluation improperly credited the awardee with the experience of its subcontractors without accounting for what the protester contends is the performance risk posed by relying on subcontractors. Supp. Protest at 10-13.

The TORFQ stated that the agency would "evaluate Technical Expertise based on how well the quotation demonstrates a clear understanding of the requirements and deliverables, and on the Offeror's expressed ability to successfully perform." AR, Tab 4, Evaluation Criteria, at 1. With regard to experience, the solicitation stated as follows:

The Offeror may provide recent (within the last 5 years) and relevant examples of experience, if those experiences demonstrate its

⁵ This document was also included in the agency report. AR, Tab 13, DigiFlight Explanation of Basis of Award Decision.

⁶ We note for the record that the Army disputes the protester's contentions, arguing that the vendors' quotations were evaluated on an equal basis. See Supp. COS/MOL at 9-11.

understanding of the requirement and its ability to perform the requirement. However, a quotation may also establish its expertise in other ways such as, but not limited to, combinations of stated capabilities and explanations of how seemingly unrelated experiences have provided sufficient preparation to perform the PWS requirements.

Id. at 2.

The Army assigned a strength to DigiFlight's quotation because "[t]he Offeror's specialized knowledge and experience in both legacy and current data systems will be advantageous to SAMD in managing case line and contract financials." AR, Tab 10, DigiFlight Evaluation, at 1. In support of this strength, the agency's evaluation cited the awardee's experience with the [DELETED], [DELETED] information system, and the [DELETED] tool. Id. at 1-3. The protester argues that the experiences cited in the agency's evaluation are associated with the awardee's proposed subcontractors, rather than DigiFlight. The protester argues that DigiFlight's reliance on the experiences and expertise of its subcontractors therefore poses an "inherent" risk of unsuccessful performance, and that the agency unreasonably failed to consider this risk. See Protester's Supp. Comments, Aug. 3, 2018, at 12-13.

As the Army notes, the TORFQ expressly provided for consideration of the quotation of an "Offeror," which is defined as follows: "For purposes of this document, 'Offeror' means the entity or entities submitting the quotation and is comprised of the Blanket Purchase Agreement (BPA) Team Leader (Prime) or Direct Awardee, as well as BPA Team Members and Subcontractors." AR, Tab 4, Evaluation Criteria, at 1. As set forth above, the technical expertise evaluation factor stated that the agency would evaluate whether a quotation demonstrates that "the Offeror" understands the solicitation requirements and has the ability to perform the work. Id. at 1-2.

Sigmattech does not dispute that DigiFlight's proposed subcontractors have the experience identified in the agency's evaluation. See Protester's Supp. Comments, Aug. 3, 2018, at 11-13. Instead, the protester argues that the agency should have discounted this experience or otherwise assigned risk to the awardee's quotation based on the protester's view that the use of subcontractors poses performance risk. See id. Based on the record, we find no basis to conclude that the agency's assignment of strengths to the awardee's quotation based on the experience of its proposed subcontractors was inconsistent with the terms of the solicitation or otherwise unreasonable. Moreover, in the absence of an express provision in the TORFQ stating that the agency would assess risk based on the use of subcontractors, we find no basis to conclude that the agency unreasonably failed to assign such a risk. The protester's disagreement with the agency's judgment as to the risk attendant to the use of subcontractors does not provide a basis to sustain the protest. See DEI Consulting, supra.

Conflict of Interest

Next, Sigmatech argues that DigiFlight had a disqualifying unequal access to information OCI and that the agency failed to reasonably assess this matter. Specifically, the protester contends that one of the awardee's proposed subcontractors hired a former government official who could have provided the awardee with competitively-useful nonpublic information. Supp. Protest at 9-10. As discussed below, we conclude that the protester's allegations do not concern an OCI, but rather a different kind of conflict of interest; we also conclude that the agency gave meaningful consideration to this conflict and find no basis to sustain the protest.

The FAR instructs agencies to identify potential OCIs as early as possible in the procurement process, and to avoid, neutralize, or mitigate significant conflicts before contract award so as to prevent unfair competitive advantage or the existence of conflicting roles that might impair a contractor's objectivity. FAR §§ 9.504, 9.505; PURVIS Sys., Inc., B-293807.3, B-293807.4, Aug. 16, 2004, 2004 CPD ¶ 177 at 7. Subpart 9.5 of the FAR, and decisions of our office, broadly categorize OCIs into three groups: biased ground rules, unequal access to nonpublic information, and impaired objectivity. As relevant here, an unequal access to information OCI exists where a firm has access to nonpublic information as part of its performance of a government contract, and where that information may provide the firm an unfair competitive advantage in a later competition for a government contract. FAR §§ 9.505(b), 9.505-4; Cyberdata Techs., Inc., B-411070 et al., May 1, 2015, 2015 CPD ¶ 150 at 6.

Sigmatech argues that DigiFlight had an unequal access to information OCI based on its relationship with KBR/Wyle⁷, a firm that was proposed by the awardee as a subcontractor. On August 14, 2017, KBR/Wyle hired a former deputy director at SAMD. AR, Tab 19a, Decl. of Former SAMD Deputy Director, July 26, 2018, at ¶ 5. This individual had served in the position of deputy director from August 2013 to June 2017. AR, Tab 19, OCI Determination, at 2. The protester argues that the individual's role with SAMD put her in a position to "obtain competitively useful nonpublic information about the Agency's needs." Supp. Protest, July 16, 2018, at 10.

As an initial matter, this argument does not pertain to an OCI under FAR subpart 9.5, but rather to a conflict of interest under FAR subpart 3.1. See Northrop Grumman Sys. Corp., B-412278.7, B-412278.8, Oct. 4, 2017, 2017 CPD ¶ 312 6-8. In this regard, the protester's allegations do not arise from the awardee's performance of a government contract, but rather its subcontractor's hiring of a former government official. See Supp. Protest, July 16, 2018, at 8-10; Northrop Grumman Sys. Corp., supra, at 8. As our Office has explained, FAR subpart 3.1 requires contracting agencies to "avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships." FAR § 3.101-1; see VSE Corp., B-404833.4, Nov. 21, 2011,

⁷ KBR/Wyle is also referenced in the record as CAS, Inc. See, e.g., AR, Tab 8, DigiFlight Technical Quotation, at 1.

2011 CPD ¶ 268 at 7. The standard for evaluating whether a firm has an unfair competitive advantage under FAR subpart 3.1 stemming from its hiring of a former government employee is virtually indistinguishable from the standard for evaluating whether a firm has an unfair competitive advantage arising from its unequal access to information as a result of an organizational conflict of interest under FAR subpart 9.5. Health Net Fed. Servs., LLC, B-401652.3, B-401652.5, Nov. 4, 2009, 2009 CPD ¶ 220 at 28 n.15.

Where a firm may have gained an unfair advantage through its hiring of a former government official, the firm can be disqualified from a competition based upon an appearance of impropriety created by this situation--even if no actual impropriety can be shown--so long as the determination of an unfair competitive advantage is based on hard facts and not on mere innuendo or suspicion. Health Net Fed. Servs., LLC, *supra*, at 28; see NKF Eng'g, Inc. v. U.S., 805 F.2d 372 (Fed. Cir. 1986). In determining whether a firm obtained an unfair competitive advantage in hiring a former government employee based on the individual's knowledge of nonpublic information, our Office has considered a variety of factors, including whether the nonpublic information was in fact available to the firm, whether the nonpublic information was proprietary information, and whether the nonpublic information was competitively useful. International Resources Grp., B-409346.2 *et al.*, Dec. 11, 2014, 2014 CPD ¶ 369 at 9. We review the reasonableness of the contracting officer's investigation and, where an agency has given meaningful consideration to whether an unfair competitive advantage exists, will not substitute our judgment for the agency's, absent clear evidence that the agency's conclusion is unreasonable. VSE Corp., *supra*; PCCP Constructors, JV; Bechtel Infrastructure Corp., B-405036 *et al.*, Aug. 4, 2011, 2011 CPD ¶ 156 at 17.

Following the filing of Sigmatech's supplemental protest, the contracting officer investigated the protester's allegations by obtaining statements from the former government employee, the contracting officer's representative (COR) for the current task order, and the vice president of DigiFlight. AR, Tab 19, OCI Determination, at 1-3. The contracting officer's determination relied primarily on the following findings.

First, the former government official states that her duties as deputy director included "[p]articipat[ing] with the Director in directing, managing, and coordinating the total activities of the organization through subordinate supervisors." AR, Tab 19a, Decl. of Former Government Employee, July 26, 2018, at ¶ 3; *see also*, AR, Tab 19, OCI Determination, at 2. The former government employee states that, "[t]o the best of my knowledge, prior to leaving the Government, I never had access to any source selection sensitive information" regarding the task order. AR, Tab 19a, Decl. of Former Government Employee, July 26, 2018, at ¶ 4. Based on responses from the COR, the contracting officer agreed that the representation by the former government employee regarding her access to source selection sensitive information was accurate. *See* AR, Tab 19, OCI Determination, at 2.

Second, the contracting officer noted that the former government official did not begin employment at KBR/Wyle until four days after the submission of DigiFlight's initial

quotation, on August 10, 2017. Id. at 3. Following the reissuance of the TORFQ on an unrestricted basis in September 2017, DigiFlight submitted a revised quotation. The former government employee states that “[a]s a KBR/Wyle employee I have not assisted in any revisions to the DigiFlight proposal for TORFQ-2015-6,” and that “I never participated in the initial proposal because supposedly it was submitted before I left Government service.” AR, Tab 19a, Decl. of Former Government Employee, July 26, 2018, at ¶ 6.

Third, the contracting officer considered a declaration submitted by the individual who was primarily responsible for the preparation of DigiFlight’s quotation. This individual states that he either “personally wrote every sentence that went into the proposal or closely supervised the writing of the prose via email exchange in response to DigiFlight data calls or team meetings,” and “was involved in every aspect of our submission.” AR, Tab 19c, Decl. of DigiFlight Vice President, July 21, 2018, at ¶ 2. The DigiFlight vice president states that he did not consult with the former government employee during the preparation of DigiFlight’s initial or revised quotations, and in fact did not know that the former government employee worked for KBR/Wyle until he was informed of the allegation raised in Sigmatech’s supplemental protest. Id. ¶¶ 5, 7. The awardee’s vice president further states that the revisions to the quotation regarding KBR/Wyle concerned minor revisions to the names of entities and an added statement regarding a KBR/Wyle facility for travel, and that DigiFlight did not request other information beyond these matters. Id. ¶ 6.

Based on the information reviewed, the contracting officer stated that she found no evidence that the former government employee “had any involvement in the development of the TORFQ PWS, or that she had access to or received any competitively useful, proprietary, or source selection information relating to the . . . TORFQ, or that she had any involvement in the procurement process or any influence on the source selection decision.” AR, Tab 19, OCI Determination, at 3. The contracting officer therefore concluded that “there is no evidence that DigiFlight gained unequal access to any nonpublic information which would give the company an unfair competitive advantage” in connection with its subcontractor’s hiring of the former government official. Id.

Sigmatech does not specifically dispute or challenge the information relied upon by the contracting officer in concluding that DigiFlight did not receive an unfair competitive advantage. See Protester’s Supp. Comments, Aug. 3, 2018, at 13-15. Instead, the protester argues that the record is sufficient to presume that, by virtue of her role as the former deputy director of SAMD, the former government official must have had access to competitively useful information and that this information could have been provided to DigiFlight. See id. The protester is correct that, where the record establishes that an unfair competitive advantage exists and is not resolved, we will presume prejudice without the need to find that information which could have provided the unfair advantage was actually utilized by the awardee. See Aetna Gov’t Health Plans, Inc.; Foundation Health Fed. Servs., Inc., B-254397.15 et al., July 27, 1995, 95-2 CPD ¶ 129 at 19. The protester, however, confuses the standard for prejudice with the prerequisite standard

for establishing whether an unfair competitive advantage exists. Where, as here, the contracting officer investigates a potential unfair competitive advantage and reasonably concludes that no such advantage exists, we will defer to the agency's judgment. See VSE Corp., supra; PCCP Constructors, JV; Bechtel Infrastructure Corp., supra. Based on the record, we find that the contracting officer's investigation gave meaningful consideration to the protester's allegations and reasonably concluded that there was no unfair competitive advantage. We therefore find no basis to sustain the protest.

Award Decision

Finally, Sigmatech argues that the Army's award decision contained a factual error, and placed unreasonable emphasis on strengths assigned to the awardee's quotation associated with certain technologies without adequately explaining the benefits of the awardee's approach.⁸ Supp. Protest at 14-15. We find no merit to these arguments.

Where a price/technical tradeoff is made in an FSS procurement, 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. The MIL Corp., B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 13. The extent of such tradeoffs is governed only by the test of rationality and consistency with the evaluation criteria. UNICCO Gov't Servs., Inc., B-409111 et al., Jan. 23, 2014, 2014 CPD ¶ 55 at 16. As with evaluations of quotations, a protester's disagreement with the agency's tradeoff judgment, without more, does not establish that the award decision was unreasonable. Id. at 17.

First, the protester notes that the award decision states the following regarding DigiFlight's quotation:

DigiFlight developed and implemented numerous systems and databases such as [DELETED], Automated Cost Estimating Integrated Tools (ACEIT) and [DELETED] and incorporating the use of [DELETED]. The implementation of these programs will significantly aid in collecting, processing and refining, analyzing and tracking data. The use of such innovative databases/systems will effectively redefine data collection and processing.

AR, Tab 11, Award Decision, at 26. The protester argues that this statement was incorrect because DigiFlight did not develop ACEIT.

⁸ Sigmatech also argues that the agency treated the protester and intervenor unequally because the award decision cited the awardee's experience with the [DELETED] tool, but did not cite the protester's similar experience. For the reasons discussed above, this argument is untimely because the protester knew based on its receipt of the awardee's debriefing that the agency assigned a strength to the awardee quotation, but not its own quotation.

The Army acknowledges that the reference to ACEIT as one of the tools developed by DigiFlight was in error, and agrees that neither DigiFlight nor its proposed subcontractors developed ACEIT. Supp. COS/MOL at 18. The agency contends, however, that the reference was an inadvertent error in describing the strength assessed by the evaluators regarding the benefit of the awardee's proposed approach of providing cost analysts trained and certified in the use of the ACEIT tool. Id. at 18-19. In this regard, both the technical evaluation and the award decision cite the following strength for the awardee's quotation:

The Offeror demonstrates the unique ability to perform cost analysis by utilizing their Automated Cost Estimating Integrated Tools (ACEIT) certified cost estimation analysts, which are personnel trained and certified using cost analysis methods. This training, already provided to the Offeror's existing workforce, will improve the quality of detailed cost assessments to SAMD.

AR, Tab 10, DigiFlight Evaluation, at 2; Tab 11, Award Decision, at 4. The agency contends that the inclusion of ACEIT in the list of tools developed by DigiFlight was an inadvertent error that was not significant because the overall discussion of the tools identified in the awardee's quotation was intended to address the benefit that the awardee would provide based on its use of those tools. Supp. COS/MOL at 19. We agree with the agency that, in light of the strength assigned to DigiFlight's quotation concerning the proposed use of personnel trained in ACEIT-certified cost estimation, and the context of the award decision's discussion of the tools that will be used by the awardee during performance, the incorrect reference to DigiFlight as the developer of ACEIT does not provide a basis to conclude that the entirety of the award decision was unreasonable.

Next, Sigmatech argues that the award decision unreasonably cited two technological tools as discriminators in favor of award to DigiFlight: [DELETED] tool, and the [DELETED] tool. Protester's Supp. Comments, Aug. 3, 2018, at 10-11. The protester contends that the awardee's quotation did not state that it would use the R&R tool during performance, and that the awardee's quotation did not explain how it would use the [DELETED] tool. Id.

As the agency notes, however, both tools were expressly identified and discussed in the awardee's quotation. The awardee's quotation explained that "[w]e⁹ developed the [DELETED] to assist in managing [United Arab Emirates], Egypt, Saudi Arabia, and Kuwait FMS cases," and provided details about how its tools "track and assist in the management of repair requirements, requisition documentation, contract information, other major commands data, and to generate key R&R reports." AR, Tab 8, DigiFlight

⁹ Consistent with the discussion above concerning the TORFQ's definition of "offeror," references in the awardee's quotation are to DigiFlight and its subcontractors.

Quotation, at 4. For the [DELETED] tool, the awardee's quotation stated that the "Team-developed [DELETED] tool includes Risk Management, Action Item Management, and Document Repository modules," and explained that "[DELETED] facilitates [DELETED] [in accordance with] the [contract data requirements list]." Id. at 8. On this record, we find no merit to the protester's argument that the award decision was unreasonable because it cited features that were not discussed in the awardee's quotation.

The protest is denied in part and dismissed in part.

Thomas H. Armstrong
General Counsel