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# Decision

**Matter of:** ZemiTek, LLC; Integrated Federal Solutions, Inc.

**File:** B-415313; B-415313.2

**Date:** December 20, 2017

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## DIGEST

Protests challenging various aspects of the evaluation of protesters' and awardee's proposals and source selection decision are denied where the contemporaneous record of evaluation demonstrated reasonable evaluation judgments and reasonable basis for selection of awardee's higher-priced proposal consistent with the terms of the solicitation.

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## DECISION

ZemiTek, LLC, of Bethesda, Maryland, and Integrated Federal Solutions, Inc., of Reston, Virginia, protest the award of a contract to Dynamic Pro, Inc., of Falls Church, Virginia, under request for proposals (RFP) No. MCC-17-RFP-0057, which was issued by the Millennium Challenge Corporation (MCC) for a personal services contract in support of MCC's Contracts & Grants Management Division. Both protesters challenge the evaluation of proposals and the source selection decision.

We deny the protests.<sup>1</sup>

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<sup>1</sup> Our Office did not consolidate the protests during the development of the cases; therefore, the agency submitted separate reports for each protest. Although the

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## BACKGROUND

As part of its mission, MCC provides foreign assistance designed to reduce poverty by promoting economic growth in selected partner countries. MCC is specifically authorized to award personal services contracts as defined by Federal Acquisition Regulation (FAR) § 2.101 and § 37.104, to meet its mission. In this acquisition, the contractor's professional staff will provide acquisition support services for different transaction types, including traditional contracting methods such as blanket purchase agreements and delivery task orders, and also non-contracting actions such as assistance awards and interagency agreements. Contracting Officer's Statement at 1; RFP Statement of Work (SOW), at 0019-20. The contractor is required to "facilitate a sufficient pool of candidates from which to fill positions as they became vacant" for "15 to 20" positions, which were to be managed directly by the agency. RFP at 0019.

MCC issued the RFP on April 27, 2017, as a set-aside competition for participants in the Small Business Administration's section 8(a) program. As amended, the RFP contemplated the award of a single indefinite-delivery, indefinite-quantity (IDIQ), personal services contract with a term of 5 years, with orders to be issued on a time and materials basis. RFP amend. 2, at 0127. The SOW identified three labor categories, with different levels under each category, that the successful offeror would be required to staff should vacancies arise during contract performance: contract specialist (CS) (levels I and II); senior CS (levels I, II, and III); and procurement assistant (PA) (levels I, II, and III). RFP at 0023-41. The RFP listed various qualifications and experience requirements for each labor category and the levels within the labor categories. Id.

Award was to be made using a best-value tradeoff selection process, considering price, and the following equally-weighted non-price factors: (1) recruitment and staffing capabilities; (2) retention of staff; (3) resumes of personnel; and (4) past performance. RFP amend. 2, at 0133-34. The solicitation provided evaluation criteria for the price and non-price factors and established that, when combined, the non-price factors were significantly more important than price. Id. at 0132.

Under the recruitment and staffing capabilities factor, offerors were required to demonstrate the ability to rapidly recruit and staff existing vacancies consistent with the terms of the SOW. Id. at 0129. The RFP provided for the agency to evaluate an offeror's recruitment and staffing capabilities to assess: the offeror's knowledge of the unique and specific challenges facing the federal acquisition workforce; its approach to

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separate reports contained common exhibits, the numbering scheme for the exhibits varied between the two reports. Accordingly, our citations to the agency report (AR) refer to ZemiTek's protest, except where otherwise indicated. The documents provided with the agency report were Bates numbered; our page citations in this decision refer to that numbering.

rapidly recruit and staff MCC vacancies with individuals that possess specific subject matter expertise in government contracting;<sup>2</sup> and its approach to adequately pre-screen these potential candidates. Id. at 0133.

For the retention of staff factor, offerors were required to demonstrate their ability to retain existing incumbent staff, and their capability and methodology to retain those staff and any new staff recruited during the life of the contract. Id. at 0129. The RFP provided for the agency to evaluate an offeror's overall approach to engage and retain incumbent staff; the agency also would assess the potential effectiveness of any retention incentives, competitive compensation or other retention mechanisms for incumbent staff and any new staff hired during contract performance. Id. at 0133.

Under the resumes of personnel factor, the RFP instructed that offerors "must include all proposed resumes" in their proposals and elsewhere indicated that offerors "shall provide five resumes of new, prospective staff" with the requisite qualifications and experience to fill any vacancies during the contract term. Id. at 0129. The RFP provided that the agency would evaluate the offerors' proposed resumes to assess: their ability to recruit new staff consistent with the standards set forth in the SOW; and the extent to which the resumes demonstrate the offerors' ability to recruit across the potential levels of the labor categories as set forth in the SOW. Id. at 0133.

For past performance, offerors were required to identify three past or current contracts for efforts similar to the requirements here and performed as either a prime or subcontractor within the last 3 years. Id. at 0130. The RFP provided that the past performance information should be in the form of a completed past performance questionnaire (PPQ), included as attachment J-2 to the solicitation, for each reference listed in an offeror's proposal. RFP amend. 1, attach. J-2, PPQ, at 0105-07. As also relevant, the PPQ forms instructed offerors to arrange for the completed PPQs to be sent directly to MCC and provided that the PPQs were due "No later than June 2, 2017," the due date for receipt of proposals. Id. at 0107. The RFP established that the agency would evaluate past performance based on the completed PPQs<sup>3</sup> as well as other available sources of information such as information contained in the contractor performance assessment reporting system. See RFP amend. 2, at 0130. In addition, the agency would assess the offerors' capability to rapidly staff and retain contracting

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<sup>2</sup> As relevant here, the RFP stated that the offeror should demonstrate its ability to provide resumes for "multiple candidates" within "5 business days of the identification of a vacancy or new requirements." RFP SOW, at 0021.

<sup>3</sup> The agency's evaluation of completed PPQs would consider the offeror's ability to control cost and deliver at the agreed price; to adhere to the agreed schedule; to successfully comply with contract requirements; to adhere to a quality assurance plan or performance based contracting requirements; and to staff and retain a highly qualified team. In addition, the agency would consider the offeror's business relations. RFP amend. 1, attach. J-2, PPQ, at 0106-07.

and acquisition personnel on contracts of similar scope and complexity to MCC's needs and the scope of this contract. Id. at 0134.

As to price, the RFP instructed offerors to provide fully burdened labor rates (FBR) for each labor category listed in the RFP's pre-formatted spreadsheets for the 5-year ordering period. The spreadsheets also specified the number of labor hours per labor category. RFP amend. 1, attach. J-1, Pricing Spreadsheets, at 0100-04. Offerors were not permitted to alter the skill mix or estimated labor hours specified in the spreadsheet. Id. The solicitation established that total evaluated price would be calculated by multiplying the estimated labor hours by the proposed FBR for each labor category over the 5-year ordering period. RFP amend. 2, at 0130. Offerors also were instructed to submit a total compensation plan that set forth proposed salaries and fringe benefits for the professional employees that would be performing on the contract. Id. The solicitation indicated that price proposals would be evaluated for completeness, price reasonableness, and price realism. Id. at 0134.

MCC received 29 proposals by the closing date of June 2, 2017; of these, four were deemed non-responsive and were eliminated from the competition. Contracting Officer's Statement at 2. Thereafter, proposals, which included the oral presentation submissions by each offeror,<sup>4</sup> were evaluated by a technical evaluation panel (TEP). Under each factor, the TEP identified the strengths, weaknesses, significant weaknesses,<sup>5</sup> or deficiencies of competing proposals and rated proposals under the non-price factors as excellent, satisfactory, or unsatisfactory.<sup>6</sup> AR exh. 20, TEP

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<sup>4</sup> During oral presentations, offerors were required to demonstrate "their technical understanding of and ability to satisfy MCC requirements and subject matter expertise;" address how they "propose[ ] to fulfill the performance objectives of this requirement;" "highlight comparable engagements that demonstrates their ability to successfully execute" the solicited services; and "address areas where the offeror[s] identified relevant risk management strategies." RFP amend. 2, at 0131.

<sup>5</sup> A strength was defined as a significant aspect of an offeror's proposal that has merit or exceeds specified performance or capability requirements that are advantageous to the government. A weakness was a flaw in the proposal that increases the risk of unsuccessful contract performance. A significant weakness was a flaw in the proposal that appreciably increases the risk of unsuccessful contract performance. AR exh. 20, TEP Consensus Report, at 0287.

<sup>6</sup> As it relates to these protests, an excellent rating was defined as: the offeror demonstrates an exceptional understanding of the services required to meet, or exceed most contract requirements, and little doubt exists that the offeror will successfully perform the solicited services. The proposal contains many significant strengths, no deficiencies, some weaknesses, and presents low risk of unsuccessful contract performance. AR exh. 20, TEP Consensus Report, at 0286.

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Consensus Report, at 0286-87. Using these same adjectival ratings, the TEP also assigned overall consensus ratings, and risk ratings of either low, moderate, or unacceptable to each competing proposal. Id. The table below shows the consensus ratings assigned to the following proposals, as well as their total evaluated prices.<sup>7</sup>

	<b>Factor 1 Recruitment and Staffing</b>	<b>Factor 2 Retention of Staff</b>	<b>Factor 3 Resumes</b>	<b>Factor 4 Past Performance</b>	<b>Overall Rating</b>	<b>Total Evaluated Price</b>
<b>Dynamic</b>	Excellent	Excellent	Satisfactory	Excellent	Excellent	\$22,808,570.00
<b>Offeror A</b>	Satisfactory	Satisfactory	Satisfactory	Excellent	Satisfactory	\$23,419,592.98
<b>ZemiTek</b>	Excellent	Excellent	Satisfactory	Satisfactory	Satisfactory	\$22,566,532.99
<b>Offeror B</b>	Excellent	Satisfactory	Satisfactory	Excellent	Satisfactory	\$21,816,348.30
<b>Integrated</b>	Satisfactory	Excellent	Satisfactory	Excellent	Satisfactory	\$20,939,127.70
<b>Offeror C</b>	Satisfactory	Excellent	Satisfactory	Excellent	Satisfactory	\$19,631,085.56
<b>Offeror D</b>	Excellent	Excellent	Satisfactory	Excellent	Satisfactory	\$19,115,012.90
<b>Offeror E</b>	Satisfactory	Excellent	Satisfactory	Satisfactory	Satisfactory	\$18,022,907.95

AR exh. 20, TEP Consensus Report, at 0288; exh. 22, Award Recommendation and Source Selection Decision, at 0421.<sup>8</sup>

Dynamic’s proposal received the highest overall rating of the eight offerors. In evaluating Dynamic’s non-price proposal, the TEP identified numerous strengths, various weaknesses, but no significant weaknesses or deficiencies, assigning Dynamic’s proposal an overall rating of excellent, with low risk. Id. exh. 20, TEP Consensus Report, at 0316-20. In contrast, in evaluating ZemiTek’s and Integrated’s non-price proposals, the TEP identified numerous strengths, various weaknesses, significant weaknesses, but no deficiencies, assigning each proposal an overall rating of satisfactory, with moderate risk. Id. exh. 20, TEP Consensus Report, at 0395-0400,

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A satisfactory rating was defined as: the offeror demonstrates an understanding of the services required to meet contract requirements. The proposal contains no deficiencies, some weaknesses or significant weaknesses, and presents moderate risk of unsuccessful contract performance. Id.

<sup>7</sup> Seventeen of the twenty-five proposals evaluated by the agency were assigned overall consensus ratings of unsatisfactory. AR exh. 20, TEP Consensus Report, at 0288-89. The agency’s evaluations thereof are not relevant to these protests and are not further considered.

<sup>8</sup> The TEP assigned Offeror D’s proposal an overall rating of satisfactory because the evaluators identified a significant weakness under factor 3, resumes of personnel. AR exh. 20, TEP Consensus Report, at 0400. In addition, the agency determined that the prices submitted by Offeror E were incomplete because the offeror did not provide complete labor rates--only adjustments to the labor rates for certain labor categories. AR exh. 22, Award Recommendation and Source Selection Decision, at 0421.

0298-0302. The agency did not conduct discussions or request revised proposals from offerors.

The source selection authority (SSA) reviewed the evaluation results, and agreed with the TEP that Dynamic presented a very strong proposal with many strengths and was the highest rated under the non-price factors. The SSA conducted a price/technical tradeoff between Dynamic’s higher-rated, higher-priced proposal, and five other offerors with proposals that were lower-rated and lower-priced: ZemiTek, Integrated, Offeror B, Offeror C, and Offeror D.<sup>9</sup> The SSA compared each of the six proposals’ relative strengths, weaknesses, significant weaknesses, and risk and found that none of the other five proposals provided any technical advantages over Dynamic’s proposal. The SSA summarized the tradeoff data as follows:

	<b>Overall Technical Rating</b>	<b>Total Evaluated Price</b>	<b>Variance versus Dynamic</b>
<b>Offeror D</b>	Satisfactory	\$19,115,012.90	-19.32%
<b>Offeror C</b>	Satisfactory	\$19,631,085.56	-16.19%
<b>Integrated</b>	Satisfactory	\$20,939,127.70	-8.93%
<b>Offeror B</b>	Satisfactory	\$21,816,348.30	-4.55%
<b>ZemiTek</b>	Satisfactory	\$22,566,532.99	-1.07%
<b>Dynamic</b>	Excellent	\$22,808,570.00	

AR exh. 22, Award Recommendation and Source Selection Decision, at 0424.

The SSA concluded that award to Dynamic was in the government’s best interest because Dynamic’s proposal received the highest rating under the non-price factors, and its proposed price was determined to be fair and reasonable. In making this determination, the SSA specifically concluded that the technical merits of Dynamic’s proposal warranted a price premium of 1.07 percent over ZemiTek’s proposal, and 8.93 percent over Integrated’s proposal. Id. at 0423-24. Accordingly, the SSA selected Dynamic for award.

After receiving debriefings, ZemiTek and Integrated filed these protests with our Office.

## DISCUSSION

ZemiTek and Integrated protest various aspects of the agency’s evaluation and best-value source selection decision. Specifically, both protesters challenge the agency’s evaluation of Dynamic’s past performance; both protesters challenge the assignment of

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<sup>9</sup> Although the proposals submitted by Offeror A and Offeror E each received an overall rating of satisfactory under the non-price factors, the SSA excluded both proposals from his best-value tradeoff decision. AR exh. 22, Award Recommendation and Source Selection Decision, at 0422.

weaknesses in their proposal; and both protesters challenge the agency's best-value determination.<sup>10</sup>

In reviewing protests challenging an agency's evaluation, our Office will not reevaluate proposals, nor will we substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. Main Sail, LLC, B-412138, B-412138.2, Jan. 29, 2016, 2016 CPD ¶ 26 at 5; Kellogg Brown & Root Servs., Inc., B-400614.3, Feb. 10, 2009, 2009 CPD ¶ 50 at 4. Rather, we will review the record only to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. Id. We have reviewed all of the protesters' allegations and conclude that none provides a basis to sustain the protests. We discuss several of the protesters' arguments below.

#### Dynamic's Past Performance Evaluation

ZemiTek and Integrated both protest the agency's evaluation of Dynamic's past performance. Specifically, the protesters allege that the past performance references submitted by Dynamic for itself, and its subcontractor, show that Dynamic has no relevant past performance for projects of similar size, scope, and complexity as the solicited requirements. See ZemiTek's Comments at 5-6; Integrated's Protest at 14-17; Integrated's Comments at 11-16. For instance, Integrated relies on publicly available information on Dynamic's website as well as the [www.usaspending.gov](http://www.usaspending.gov) website, to underscore its arguments that Dynamic has no demonstrated relevant past performance to merit a rating of excellent, nor even a rating of satisfactory. Integrated's Protest at 16-17. Although we do not specifically address all of the protesters' challenges to the evaluation of Dynamic's past performance, we have considered each protester's arguments and find that none provide a basis to sustain the protests.

An agency's evaluation of past performance, which includes its consideration of the relevance and scope of an offeror's performance history, by its very nature, is subjective, and we will not substitute our judgment for reasonably based evaluation ratings. Rotech Healthcare, Inc., B-413024 et al., Aug. 17, 2016, 2016 CPD ¶ 225 at 5; CLS Worldwide Support Servs., LLC, B-405298.2 et al., Sept. 11, 2012, 2012 CPD ¶ 257 at 15. Where a protester challenges an agency's past performance evaluation, we will review the evaluation only to determine if it was reasonable and consistent with the solicitation's evaluation criteria and applicable statutes and regulations. DynCorp Int'l, LLC, B-412451, B-412451.2, Feb. 16, 2016, 2016 CPD ¶ 75 at 14. A protester's disagreement with the agency's evaluation judgments, by itself, does not establish that those judgments are unreasonable. WingGate Travel, Inc., B-412921, July 1, 2016, 2016 CPD ¶ 179 at 4.

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<sup>10</sup> In filing and pursuing these protests, ZemiTek and Integrated have made arguments that are in addition to, or variations of, those discussed herein. We have considered all of the protesters' arguments and find no basis to sustain their protests.

As stated previously, the RFP instructed offerors to submit three relevant past performance references and established that the agency would evaluate each offeror's demonstrated capability to rapidly staff and retain contracting and acquisition support personnel on contracts of similar scope and complexity. RFP amend. 2, at 0134. The RFP defined relevancy as "similar in size, scope, and complexity." Id., Question and Answer (Q&A) No. 72, at 0147.

Here, Dynamic submitted three past performance references--two for itself and one for its proposed subcontractor. AR (Integrated) exh. 32, Dynamic Past Performance Proposal, at 0707-13. In accordance with the RFP instructions, for each contract reference, Dynamic provided a description of the prior effort performed, contract dollar value, period of performance, and an explanation regarding how the contract was relevant to the RFP's SOW. Id.; see RFP at 0130. With regard to its Washington Metropolitan Area Transit Authority (WMATA) reference, Dynamic described its prior work as providing financial management and acquisition support services that includes providing program manager and contract specialist services to assist in the execution of WMATA's infrastructure renewal program. AR (Integrated) exh. 32, Dynamic Past Performance Proposal, at 0707. Similarly, with regard to its subcontractor's United States Coast Guard (USCG) contract, Dynamic described the prior effort as assisting the prime contractor "in providing cradle-to-grave acquisition support" services such as filling 17 positions under a task order issued under an IDIQ contract; those positions include seven senior specialists, eight contract specialists, and two junior contract specialists. Id. at 0712. Dynamic's third reference was for work performed under an IDIQ contract for the Housing and Urban Development (HUD) in which Dynamic provided, among other things, technical evaluation support and contracting officer support services in various acquisitions. Id. at 0710.

The TEP's assessment of relevance was based on its consideration of the scope and complexity of the work previously performed, and found that while one of Dynamic's references (HUD) included acquisition support services, the value of the effort was deemed too small to be relevant. The TEP however found Dynamic's other contracts (WMATA and USCG) similar in scope and complexity based on the information provided in Dynamic's proposal and the information provided by these contract references in the PPQs; the TEP deemed these two prior contracts relevant. See AR (Integrated) exh. 22, TEP Consensus Report, at 0343; exh. 34, USCG PPQ, at 0732-34; exh. 35, WMATA PPQ, at 0735-37. The TEP also considered the performance quality of Dynamic's prior efforts on these two contracts, which received very good ratings and positive comments from the past performances references. The TEP concluded, based on the overall assessments of the relevance and quality of these prior efforts that there was little doubt that Dynamic would successfully perform the solicited services and assigned a corresponding rating of excellent. Id.

While ZemiTek and Integrated both maintain that the work performed by Dynamic under its prior contracts was not similar in scope and complexity to the services to be provided here, we have no basis to question the reasonableness of the agency's evaluation. As set forth above, the contemplated contract requires the selected contractor to provide a



pool of staff (between 15 and 20 personnel) to perform acquisition support services, under the direction of agency personnel. On their face, the two contracts identified as relevant by the agency involved essentially the same type of services, that is, staffing agencies with necessary acquisition support personnel in numbers nearly identical to those required under the contemplated contract. Ultimately, the protesters' arguments reflect nothing more than their disagreement with the agency's evaluation judgments, which does not establish that those judgments were unreasonable. WingGate Travel, Inc., supra.

## ZemiTek's Protest

ZemiTek argues that the agency unreasonably assigned its proposal various weaknesses under the resumes of personnel factor. ZemiTek also argues that the agency unreasonably failed to consider one of its past performance references. Based on our review of the record, we have no basis to question the propriety of the agency's evaluation.

### Resumes of Personnel Factor

The record reflects that the TEP assigned ZemiTek a weakness under the resumes of personnel factor, see AR exh. 20, TEP Consensus Report, at 0398, because it only provided resumes for the senior CS labor category (I, II, and III) and thereby failed to provide resumes for any of the other less skilled labor categories listed in the SOW; namely, CS I and II, and PA I-III. The agency concluded that ZemiTek's failure to show that it had the ability to recruit across the various labor categories introduced some risk of unsuccessful contract performance if ZemiTek was unable to staff lower-level labor category positions, which could lead to increased costs as the more senior labor categories are more costly. Id.

ZemiTek first argues that the agency's assignment of a weakness under this factor was unreasonable, given the RFP's guidance that offerors were only required to submit five resumes to demonstrate their ability to recruit and engage new staff and candidates with substantial experience, skills, abilities, and training, in federal, state or local government acquisitions. ZemiTek's Protest at 8-9; ZemiTek's Comments at 7. While the solicitation did not require firms to submit resumes for each level of each labor category, the solicitation advised that the agency would evaluate the offeror's ability to recruit individuals across the potential levels of labor categories set forth in the SOW. Id. at 0133 (underline added); see also, Q&A No. 27, at 0139. Since ZemiTek addressed only one of the three labor categories listed in the solicitation and failed to provide resumes for any non-senior labor categories, we have no basis to question the reasonableness of the agency's evaluation. Accordingly, ZemiTek's arguments are without merit.

Next, ZemiTek contends that the agency erred in assigning three significant weaknesses to its proposal under this same evaluation factor. ZemiTek's Protest at 10-11; ZemiTek's Comments at 7-9. The significant weaknesses were assigned

because ZemiTek's resumes for a senior labor category CS II and a senior CS III position failed to adequately detail the named individual's years of employment. The TEP was concerned that the apparent gap in employment was indicative of very high turnover or constant job-switching by these individuals, thereby creating an appreciable increase in the risk of unsuccessful contract performance. AR ex. 20, TEP Consensus Report, at 0398-99. The third resume, for another senior CS III labor position, lacked meaningful details regarding the named individual's qualifications. Id. at 0399. The TEP noted that this individual's acquisition and contracting experience could not be confirmed because "all experience prior to 2010 [was] truncated to only position titles," creating an appreciable increase in the risk of unsuccessful contract performance. Id.

ZemiTek asserts that the agency's assessments were an irrational reading of the resumes and were based on a purely speculative and unsubstantiated threat of unsuccessful contract performance. ZemiTek's Comments at 7-9. Again, we find no basis to question the agency's evaluation as unreasonable or inconsistent with the RFP criteria. Rather, as indicated above, the record reflects that the evaluation findings documented the manner in which the agency found the information in the resumes lacking and explained how it could potentially create risk to the government. We have no basis to question the agency's evaluation in this regard. An offeror risks having its proposal evaluated unfavorably where it fails to submit an adequately written proposal. Recon Optical, Inc., B-310436, B-310436.2, Dec. 27, 2007, 2008 CPD ¶ 10 at 6.

#### ZemiTek's Past Performance

ZemiTek next argues that the agency's evaluation of its past performance was flawed because the agency ignored or otherwise failed to evaluate ZemiTek's subcontractor's relevant past performance. ZemiTek's Protest at 5-7. According to ZemiTek, the agency impermissibly excluded its subcontractor's PPQ from the past performance evaluation because it was received "one business day late" id. at 8, which in the protester's view was "not too late in the evaluation process to be reasonably considered." Id. ZemiTek maintains that its subcontractor's past performance information should have been evaluated as this information was included in ZemiTek's past performance proposal and simply was too close at hand for the agency to reasonably ignore given that its subcontractor's PPQ was received "at the very beginning of the evaluation process." ZemiTek's Comments at 6.

As noted above, our Office will not reevaluate proposals or substitute our judgment for that of the agency for reasonably based past performance ratings. Rotech Healthcare, Inc., supra. In this regard, there is no legal requirement that all past performance references be included in a valid review of past performance. Advanced Data Concepts, Inc., B-277801.4, June 1, 1998, 98-1 CPD ¶ 145 at 10. However, we have recognized that in certain circumstances, an agency has an obligation to consider past performance information that is too close at hand to ignore. See e.g., Affordable Eng'g, Servs., Inc., B-407180.4 et al., Aug. 21, 2015, 2015 CPD ¶ 334 at 13. Such close at hand information generally concerns contracts for the same services with the same

procuring agency, or information personally known to the evaluators. Exelis Sys. Corp., B-407111 et al., Nov. 13, 2012, 2012 CPD ¶ 340 at 22.

In this case, the record does not support ZemiTek's claim that the agency either improperly ignored or erroneously failed to consider its subcontractor's past performance information. First, the record shows that the past performance information at issue was not for the same services, was not with the same agency, and was not personally known to the agency evaluators. Thus, the agency had no independent knowledge of the information set forth in ZemiTek's subcontractor's PPQ which the agency received after the due date.

Second, as the agency points out, the solicitation required offerors to ensure that their past performance references forward their completed PPQs directly to the agency by June 2. RFP amend. 1, attach J-2, PPQ, at 0107. There is no dispute in the record before us that the PPQ for ZemiTek's subcontractor was received after that date.<sup>11</sup> Quite simply, on this record, it was ZemiTek's responsibility to ensure that completed PPQs were submitted to the agency by the required due date. Having failed to comply with the submission deadline expressly established in the solicitation, we reject ZemiTek's challenge to the agency's decision not to consider the PPQ for ZemiTek's subcontractor, which was not received by the due date.<sup>12</sup>

#### Integrated's Protest

Integrated contends that it was unreasonable for the agency to assign its proposal ratings of satisfactory under the recruitment and staffing capabilities factor and the resumes of personnel factor. More specifically, Integrated challenges the significant weakness assigned to its proposal under the recruitment and staffing capabilities factor, and the two weaknesses assigned under the resumes of personnel factor. After reviewing each of these weaknesses, we find the record supports the agency's assessments.

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<sup>11</sup> The agency represents that it received PPQ's from two other offerors after the June 2<sup>nd</sup> deadline which, like ZemiTek's subcontractor's PPQ, were not considered because they were late. Contracting Officer's Statement at 9.

<sup>12</sup> Our Office recently denied a protest challenging an agency's decision to consider an offeror's PPQ, which it received one day after the deadline established by the solicitation. Arcanum Grp., Inc., B-413682.4, B-413682.5, Aug. 14, 2017, 2017 CPD ¶ 335 at 7-8. In Arcanum, we concluded that the agency reasonably exercised its discretion to consider the late PPQ. This decision does not, however, compel the consideration of a late PPQ where the agency properly concludes that the PPQ has been received after the deadline established by the solicitation.

## Recruitment and Staffing Capabilities

The record shows that in evaluating Integrated's proposal under the recruitment and staffing capabilities factor, the TEP identified two strengths noting that the proposal "exceeds many requirements and shows significant strengths." AR (Integrated) exh. 22, TEP Consensus Report, at 0322. However, the TEP found that while Integrated's recruiting and staffing methodology was detailed, it did "not include any timelines or standards to establish rapid recruiting." Id. That is, Integrated did not address the "five-day requirement to provide resumes" once there was a vacancy. Id. at 0323. The agency found this failure appreciably increased the risk of unsuccessful recruiting and risk to the government, and was deemed a significant weakness. Id.

Integrated disagrees with the agency's assessments. According to Integrated, the agency misread or disregarded pertinent information in its proposal regarding its ability to "fill vacancies in fewer than five days," and references specific sections in its proposal that it contends should have been viewed as demonstrating its methodological approach to rapidly recruit and staff individuals for this requirement. Integrated's Comments at 5. For example, Integrated highlights sections of its proposal emphasizing that it "actively sources qualified professionals for our current and future projects" see AR (Integrated) exh. 14, Integrated's Proposal, at 0220, and indicating that Integrated was "experienced with hiring new on-site within predetermined parameters (per RFP)." Id. at 0217. We find the agency's assessment of the weakness here to be reasonable since Integrated's proposal failed to include any mention of the 5-day turnaround requirement for submitting resumes. In this regard, Integrated has not shown that its proposal acknowledged, let alone clearly explained how it would meet the 5-day turnaround requirement to submit resumes once there is a vacancy or new requirements, as required by the RFP. See RFP at 0036; RFP amend. 2, at 0147.

Alternatively, Integrated argues that the agency conducted an unequal evaluation of its own and Dynamic's proposals under the recruitment and staffing capabilities factor. To the extent its proposal received a significant weakness for failing to address the 5-day turnaround time to submit resumes, Dynamic's proposal should have been downgraded for the same omission. Integrated's Comments at 6-7. The record, however, indicates that Dynamic did in fact address the 5-day turnaround time requirement in its proposal thereby belying Integrated's disparate treatment argument. See AR (Integrated) exh. 30, Dynamic's Proposal, at 0655 (providing that "[Dynamic] will Provide Multiple Qualified Candidate Resumes within Five Business Days of Vacancy or New Requirement; Resumes will be Forwarded to [contracting officer representative] and [contracting officer]"). Where a protester alleges unequal treatment in a technical evaluation, it must show that the difference in ratings did not stem from differences in the proposals. See Northrop Grumman Sys. Corp., B-406411, B-406411.2, May 25, 2012, 2012 CPD ¶ 164 at 8.

## Integrated's Resumes of Personnel<sup>13</sup>

With regard to one of the weaknesses assessed under this factor, the agency found that Integrated did not provide resumes for the PA labor category at any level, which created some risk that Integrated could not successfully recruit individuals under the PA labor category. AR (Integrated) exh. 22, TEP Consensus Report, at 0325. Similar to the challenge leveled by ZemiTek, Integrated protests this finding, arguing that nothing in the solicitation required offerors to submit resumes for any PA positions, see Integrated's Protest at 13; instead, offerors simply were required to submit five resumes for new prospective staff with substantial experience, skills, abilities, and training, in government acquisitions. Id.; Integrated's Comments at 8-9. As such, Integrated argues, offerors could "exercise their judgment as to which labor categories to represent." Integrated's Comments at 9. As noted above in addressing the challenge raised by ZemiTek regarding the agency's evaluation under this factor, we found the agency's evaluation reasonable given that the solicitation required offerors to demonstrate their ability to recruit individuals across the potential levels of the labor categories. Where Integrated's proposal did not demonstrate its ability to recruit for the PA labor category, at any level, we find Integrated's challenge to be without merit.

### Selection Decision

Finally, both ZemiTek and Integrated assert that the best-value determination was flawed, alleging that the best-value tradeoff was based on the agency's allegedly improper underlying evaluations.

As discussed above, we found no basis to object to the agency's evaluation of the offerors' proposals and we rejected all of the protesters' challenges to the agency's evaluation. As also discussed above, the SSA considered and applied the solicitation's stated evaluation factors, including the provision that the non-price factors, when combined, were significantly more important than price, and concluded that the superiority of Dynamic's proposal under these more important factors outweighed ZemiTek's and Integrated's lower price. On this record, there is no basis to challenge the agency's source selection decision.

The protests are denied.

Thomas H. Armstrong  
General Counsel

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<sup>13</sup> While the agency identified two weaknesses in Integrated's proposal under this evaluation factor, see AR (Integrated) exh. 22, TEP Consensus Report, at 0325, Integrated did not challenge the second identified weakness under this factor.