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# Decision

**Matter of:** DynCorp International LLC; AAR Supply Chain, Inc.

**File:** B-415873; B-415873.2; B-415873.3; B-415873.4

**Date:** April 12, 2018

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Lieutenant Colonel Kevin P. Stiens and Alexis J. Bernstein, Esq., Department of the Air Force, for the agency.

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## DIGEST

Protests of an agency's past performance evaluations are denied where the record shows that the evaluations and source selection decision were reasonable, well documented, and consistent with the terms of the solicitation.

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## DECISION

DynCorp International LLC, of Fort Worth, Texas, and AAR Supply Chain, Inc. (AAR), of Wood Dale, Illinois, protest the award of a contract to JPATS Logistics Services, LLC (JLS), under request for proposals (RFP) No. FA8617-18-R-6213, issued by the Department of the Air Force for aircraft supply chain management services. The protesters challenge the agency's past performance evaluations and source selection decision.

We deny the protests.

## BACKGROUND

The RFP was issued pursuant to Federal Acquisition Regulation (FAR) part 15, and provided for the award of a largely fixed-price, indefinite-delivery, indefinite-quantity (IDIQ) contract for contractor operated and maintained base supply (COMBS) services, for a 5-year base period, a 3-year option period, and a 6-month option period. Agency Report (AR), Tab 4, RFP § I at 149, 155, 157, §§ M.1.1-1.2; Contracting Officer's Statement (COS) at 3, 9.<sup>1</sup> The solicitation included a detailed performance work statement (PWS) for COMBS services to support the Joint Primary Aircraft Training System (JPATS) program, which comprises a fleet of over 740 Beechcraft T-6 Texan II training aircraft spread across 11 locations in the continental United States (CONUS).<sup>2</sup> RFP § J, attach. 1, PWS, at 249-65. The COMBS contractor must repair and overhaul the aircraft's engines in accordance with Federal Aviation Administration (FAA) regulations through the use of original equipment manufacturer (OEM) or OEM-designated repair stations; maintain business relationships with OEMs; ensure that parts and engines are FAA-certified or meet government approved specifications; and maintain an on-line system for tracking inventory, parts requisition, and component shelf-life, among other things. See PWS §§ 1.1, 1.3.1, 1.3.3, 1.3.8, 1.3.14.1, 1.4.2.

The RFP stated that award would be based on a best-value tradeoff between the past performance and price of technically-acceptable proposals, and that the past performance evaluation factor (at issue here) was significantly more important than the price evaluation factor. RFP § M.1.1. Technical acceptability would be evaluated on a pass/fail basis considering three subfactors: program management, supply chain management, and transition. Id. § M.2.2. Offerors were instructed to submit separate technical, past performance, and price proposal volumes. Id. § L.2.3.4.

Offerors were to submit past performance information for "each significant subcontractor, teaming partner, and/or joint venture." Id. § L.4.1.2. The RFP defined a "significant" subcontractor, teaming partner, or joint venture as a business entity that contributes more than five percent of the overall effort and/or is responsible for a key component or service of the contracted effort. Id. An offeror could submit up to three contracts for the prime contractor and for each significant subcontractor, teaming partner, or joint venture. Id. § L.4.1.5. For each contract, the offeror was to identify the

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<sup>1</sup> Citations to the RFP are to the conformed version of the solicitation provided in the agency report filed in response to DynCorp's protest. Citations to the COS and report exhibits (as indexed in the initial AR) are also to those filed in response to DynCorp's protest, unless indicated otherwise.

<sup>2</sup> The fleet comprises three versions of the T-6 (T-6A/B/D), which is a small, tandem seat plane with a single turboprop engine manufactured by Pratt & Whitney. See PWS § 1; [www.af.mil/AboutUs/Fact-Sheets/Display/Article/104548/t-6a-texan-ii/](http://www.af.mil/AboutUs/Fact-Sheets/Display/Article/104548/t-6a-texan-ii/); [www.navy.mil/navydata/fact\\_display.asp?cid=1100&tid=1750&ct=1](http://www.navy.mil/navydata/fact_display.asp?cid=1100&tid=1750&ct=1) (last visited Apr. 3, 2018); see, e.g., Beechcraft Def. Co., LLC, B-406170.2 et al., June 13, 2013, 2013 CPD ¶ 147 at 2.

contractor, contract type, dollar value, and period of performance, as well as describe the services provided, any performance problems encountered, and the contractor's mitigating actions. See id. § L.7.1, attach. 1.1, at 2471-74. The offeror was also to explain the contract's relevance to each of the RFP's technical subfactors set forth above. Id. In this respect, the offeror was to provide a description of the work and estimated effort that the subcontractor, teaming partner, or joint venture would perform with respect to each subfactor. Id. In addition, the offeror was to submit a past performance questionnaire for each contract and a consent letter from each contractor authorizing disclosure of its past performance information. Id. §§ L.4.1.3-4. The RFP reserved the agency's right to use all available information to fully assess an offeror's past performance. Id. § M.2.3.2.

The RFP stated that the Air Force would perform an integrated past performance confidence assessment after evaluating the relevance and quality of performance for each contract. Id. §§ M.2.3.2, M.2.3.3. With respect to relevance, the agency would conduct an in-depth evaluation of all recent past performance information obtained, to determine how closely those contracts related to the scope, magnitude, and complexity of the requirement.<sup>3</sup> Id. § M.2.3.2.2. The RFP further stated that scope, magnitude, and complexity would be assessed based on the proposed role or effort of the prime contractor, subcontractor, teaming partners, or joint venture relative to their past performance contracts, and that to be considered relevant, efforts must involve supply chain management. Id. In addition, the agency would consider: (1) the type of system (i.e., aircraft), fleet size, and number of operating locations; (2) the total quantity and dollar value of material and equipment managed; and (3) the total quantity and dollar value of government-furnished property (GFP) managed. Id.

The solicitation provided that the Air Force would assess the degree of confidence in the offeror's ability to supply products and services based on its demonstrated record of performance. Id. § M.2.3. Offerors would be assessed an adjectival past performance confidence rating of substantial, satisfactory, neutral, limited, or no confidence. Id. § M.2.3.1. The RFP advised that more relevant past performance may have a greater impact on the performance confidence assessment than less relevant efforts. Id. § M.2.3.2. With respect to adverse past performance, the agency would consider the number and severity of the problems, mitigating circumstances, and the effectiveness of the contractor's corrective actions. Id. § M.2.3.2.3. The RFP stated that taking mitigating corrective actions may or may not result in a higher quality assessment. Id.

The Air Force received proposals from four offerors, including JLS, AAR, and DynCorp (the incumbent COMBS II contractor). AR, Tab 28, Final Source Selection Eval. Board

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<sup>3</sup> The RFP did not expressly define scope, magnitude, or complexity. Recent was defined as having been performed within 5 years of the RFP issue date and the submission of the offeror's final proposal. See RFP § M.2.3.1.1. The RFP stated that if any part of the contract performance fell within that timeframe, the contract "in its entirety" would be evaluated for past performance. Id.

(SSEB) Rep., at 7. Technical proposals, past performance information, and price proposals were evaluated by separate teams. Supp. COS at 3. The past performance evaluation team (PPET) conducted an initial past performance evaluation and sent clarification requests to offerors. Id.

In evaluating past performance, the PPET considered the contracts submitted by offerors, as well as those identified by the agency, as discussed below. For each contract, the evaluators assigned separate relevancy and quality past performance ratings under each of the three technical criteria; the evaluators did not assign overall relevancy and quality ratings for any individual contract. See, e.g., AR, Tabs 18-27, Final JLS Past Perf. Relevancy & Quality Worksheets. To assess performance quality, the PPET reviewed the information presented in an offeror’s past performance volume, available contractor performance assessment reporting system (CPARS) reports, and client questionnaires; conducted discussions with offerors regarding adverse information; and interviewed cognizant government officials or prime contractors. See generally id.

The evaluators’ initial findings were documented by the SSEB, which recommended that the agency conduct discussions with all four offerors. Supp. COS at 3; AR, Tab 41, Initial SSEB Rep., at 1-56. The source selection authority (SSA) agreed and established a competitive range consisting of the four offerors. AR, Tab 59, Competitive Range Determination, at 1-5. Following discussions, all four proposals were found technically acceptable and DynCorp’s, AAR’s, and JLS’s proposals were evaluated as follows:

	<b>DynCorp</b>	<b>AAR</b>	<b>JLS</b>
<b>Past Performance</b>	Satisfactory Confidence	Satisfactory Confidence	Substantial Confidence
<b>Total Evaluated Price</b>	\$2,038,873,605	\$1,763,149,207	\$1,693,816,323

AR, Tab 29, SSAC Rep., at 1-11; Tab 28, Final SSEB Rep., at 21-28, 33-37, 42-46.

A source selection advisory council (SSAC) reviewed the SSEB’s evaluation findings, conducted a comparative analysis and tradeoff, and recommended award be made to JLS as the offeror with the highest past performance confidence assessment and lowest total evaluated price (TEP).<sup>4</sup> AR, Tab 29, SSAC Rep., at 1-11. The SSA reviewed the SSAC and SSEB evaluation reports and concurred with their recommendations. AR, Tab 31, Source Selection Decision, at 2-4.

<sup>4</sup> The Air Force did not disclose the exact TEP of the fourth offeror, but the SSAC did note that the fourth offeror had a “significant price increase” over JLS’s proposal. AR, Tab 29, SSAC Rep., at 9.

The Air Force awarded the contract to JLS and, following receipt of a debriefing, AAR and DynCorp filed these protests.

## DISCUSSION

AAR and DynCorp protest the evaluation of JLS's past performance, as well as the agency's best-value tradeoff and source selection decision.<sup>5</sup> DynCorp also protests the evaluation of its own past performance, as well as AAR's.

Where a protester challenges an agency's evaluation of experience or past performance, we will review the evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria and procurement statutes and regulations, and to ensure that it is adequately documented. See MFM Lamey Grp., LLC, B-402377, Mar. 25, 2010, 2010 CPD ¶ 81 at 10; Falcon Envtl. Servs., Inc., B-402670, B-402670.2, July 6, 2010, 2010 CPD ¶ 160 at 7. An agency's evaluation of past performance, including its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion which we will not disturb unless the agency's assessments are unreasonable or inconsistent with the solicitation criteria. SIMMEC Training Sols., B-406819, Aug. 20, 2012, 2012 CPD ¶ 238 at 4.

Based on our review of the contemporaneous record--which is extensive and well-documented--we find the Air Force reasonably evaluated the offerors' past performance. Although we do not address each of the protesters' arguments, we have considered all of the protesters' contentions and find that none provide a basis to sustain the protests.<sup>6</sup>

### AAR's Protest

AAR contends the Air Force unreasonably assessed a substantial confidence in JLS's ability to successfully perform the COMBS III contract, because JLS is a new joint venture (JV) with no recent, relevant past performance. AAR Protest at 10-13. At issue here, JLS is a JV between IAP Worldwide Services, Inc. (IAP), of Cape Canaveral, Florida, and Kellstrom Defense Aerospace, Inc. (KDA) of Miramar, Florida. AR, Tab 7,

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<sup>5</sup> AAR initially challenged its own past performance evaluation, but withdrew that protest ground after receipt of the agency report. AAR Comments & Supp. Protest (Comments) at 3 n.2.

<sup>6</sup> For example, we dismiss DynCorp's challenge to the agency's affirmative responsibility determination, because our Office generally will not consider such challenges and none of our exceptions are applicable here. See DynCorp Protest at 23-25; 4 C.F.R. § 21.5(c); *infra* nn. 7, 13-14 (dismissing other protest grounds for failure to state valid bases of protest).

JLS Proposal (Prop.), at 9-13.<sup>7</sup> JLS submitted two past performance contracts for IAP and one for KDA. Id. at 14-31. The PPET found all three contracts relevant to the requirement and to IAP's and KDA's proposed roles. See AR, Tabs 23-24, 27, Final JLS Relevancy Worksheets.

AAR asserts the agency improperly credited JLS with the past performance of IAP and KDA because, according to the protester, there is no evidence that those entities will perform the contract. AAR Protest at 11-12. In this respect, AAR maintains that the agency failed to assess which corporate resources and personnel IAP and KDA committed to performing the COMBS effort. AAR Comments at 3-4. Rather, AAR claims the evaluators simply assumed the JV partners had committed the necessary resources, but contends that the evaluators did not consider, for example, whether JLS "proposed to staff the contract with new hires, not employed by either IAP or KDA." Id. at 4.

It is well established that an agency may properly consider the relevant past performance history of the individual joint venture partners of the prime contractor in evaluating the past performance of a joint venture, so long as doing so is not expressly prohibited by the solicitation. Alliant Enter. JV, LLC, B-410352.5, B-410352.6, July 1, 2015, 2015 CPD ¶ 209 at 13. The relative merits of an offeror's past performance information is generally within the broad discretion of the contracting agency, and our Office will not substitute our judgment for that of the agency. See Paragon Tech. Grp., Inc., B-407331, Dec. 18, 2012, 2013 CPD ¶ 11 at 5.

As set forth above, the RFP did not prohibit, but in fact required the Air Force to evaluate the past performance of JVs or individual JV partners that would perform

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<sup>7</sup> The Air Force did not provide JLS's technical or price proposals because our Office dismissed the protesters' challenges in this respect. Therefore, our citations to the parties' proposals are only to their past performance volumes. For example, we dismissed, for failure to state a valid basis of protest, DynCorp's protest that JLS's price was "so extraordinarily low that it [was] obviously incomplete and unbalanced," and that JLS's technical proposal should have been found unacceptable in this regard. DynCorp Protest at 21-23. To prevail on an allegation of unbalanced pricing, a protester must show that one or more prices in the allegedly unbalanced proposal are overstated; it is insufficient for a protester to show simply that some line item prices in the proposal are understated. See, e.g., First Finan. Assocs., Inc., B-415713, B-415713.2, Feb. 16, 2018, 2018 CPD ¶ 76 at 7. While both understated and overstated prices are relevant to the question of whether unbalanced pricing exists, the primary risk to be assessed in an unbalanced pricing context is the risk posed by overstatement of prices, because low prices (even below cost prices) are not improper and do not themselves establish (or create the risk inherent in) unbalanced pricing. See, e.g., id. Here, DynCorp does not allege that any of JLS's prices are overstated, which provides no basis for us to question the Air Force's price or technical evaluations. See DynCorp Protest at 21-23; 4 C.F.R. § 21.5(f).

five percent or more of the effort. RFP §§ L.4.1.2, M.2.3.2.2. Contrary to AAR's assertion, JLS's past performance volume stated that IAP was the managing JV partner and would be responsible for all aspects of the work; that IAP would perform [DELETED] percent of the effort; and that KDA would perform [DELETED] percent. AR, Tab 7, JLS Prop., at 13. IAP and KDA also provided consent letters verifying their participation as JV partners. Id. at 9-11. Moreover, the record shows that JLS provided a detailed explanation of IAP's and KDA's respective roles for each past performance contract, relative to the RFP's program management, supply chain management, and transition criteria. See id. at 9-13. JLS's past performance volume also included a detailed history of the organizational structure of IAP and KDA, as required by the RFP. Id. at 32-33; RFP § L.4.1.6.

The record also shows that the PPET evaluated the past performance of IAP and KDA relative to the effort each JV partner would perform overall, and with respect to the three technical criteria. See AR (B-415873.2), Tab 106, SSEB Rep., at 42. For example, the evaluators considered each contractor's performance of transition activities for each of their past performance contracts, including their ability to recruit and hire personnel during contract transition. See, e.g., AR, Tab 23, Final JLS Relevancy Worksheet (IAP), at 3 (noting that IAP completed a 30-day transition and recruited and hired key and non-key personnel at four geographically separate locations); Tab 27, Final JLS Relevancy Worksheet (KDA) at 3 (noting that KDA transitioned personnel and moved the entire inventory to new facilities). In addition, the record shows that the PPET sought clarification from JLS regarding its proposed engine overhaul and repair vendor and considered the extent of that vendor's anticipated performance of the effort, as discussed below. See AR, Tab 35, JLS Eval. Notice (EN), at 1-2.

On this record, we have no basis to sustain AAR's protest. Although AAR believes the Air Force was required to conduct a more searching inquiry into JLS's available staffing and resources, the RFP did not require such an inquiry with respect to an offeror's past performance, even where the offeror was a JV. See RFP § M.2.3, § L.3.1.5.a (only requiring offerors to propose, in their technical proposals, a staffing plan, including an organizational structure encompassing all manpower and functions to meet PWS requirements), § M.2.2.1.1 (providing for the technical evaluation of an offeror's staffing plan); see, e.g., Base Techs., B-293061.2, B-293061.3, Jan. 28, 2004, 2004 CPD ¶ 31 at 8 n.10 (denying protest that none of the JV's key personnel provided commitment letters to demonstrate that the JV could adequately staff the contract).

### DynCorp's Protest

DynCorp raises three primary challenges: (1) that the Air Force evaluated the relevance of JLS's past performance unreasonably and based on unstated evaluation criteria; (2) that the agency improperly considered the past performance of Pratt & Whitney (P&W) in evaluating JLS's and AAR's proposals; and (3) that the agency evaluated the past performance of DynCorp and JLS disparately.

DynCorp identified three contracts in its past performance proposal volume: (1) its incumbent COMBS II contract; (2) an Air Force contract to provide logistical support for a fleet of 76 C-21A aircraft at 10 CONUS locations; and (3) P&W's performance as the incumbent engine overhaul and repair subcontractor. AR, Tab 6, DynCorp Prop., at 15-31. In addition, the Air Force considered DynCorp's subsequent, 1-year contract extending COMBS II. AR, Tab 10, Final DynCorp Relevancy Worksheet (COMBS II Bridge Contract), at 1-4. The PPET evaluated the past performance relevance and quality of DynCorp's four contracts as follows:

	Program Mgmt.		Supply Chain Mgmt.		Transition (Phase-In)	
	Very Relevant	Satisfactory	Very Relevant	Satisfactory	Very Relevant	Satisfactory
<b>COMBS II</b>	Very Relevant	Satisfactory	Very Relevant	Satisfactory	Very Relevant	Satisfactory
<b>C-21</b>	Relevant	Satisfactory	Somewhat Relevant	Very Good	Relevant	Very Good
<b>COMBS II Bridge</b>	Very Relevant	Satisfactory	Very Relevant	Satisfactory	Relevant	Satisfactory
<b>P&amp;W<sup>8</sup></b>	-	-	Very Relevant	Very Good	-	-

AR, Tab 28, Final SSEB Rep., at 37.<sup>9</sup>

As stated above, JLS identified three contracts in its past performance proposal volume. With respect to IAP, JLS identified: (1) a contract to support the Department of the Navy, Airborne Command, Control and Communications program's fleet of 16 E-6B aircraft located at four CONUS locations; and (2) the follow-on contract for the same services (hereinafter, E-6B I and E-6B II contracts, respectively). AR, Tab 7, JLS Prop., at 14-25. With respect to KDA, JLS identified a Total System Support Responsibility (TSSR) contract between the Air Force and Northrop Grumman (KDA was the subcontractor) to support a fleet of 17 E-8C aircraft, with a central operating location in CONUS and a changing number of world-wide forward operating locations. Id. at 26-31. The PPET considered two additional contracts not included in JLS's proposal: (1) the Air Force's 1-year Future Flexible Acquisition and Sustain Tool (F2AST) contract--awarded by the JPATS program office that issued the instant COMBS III solicitation--to provide program support for JPATS; and (2) P&W's performance as the incumbent engine overhaul and repair subcontractor. AR, Tabs 25-26, Final JLS

<sup>8</sup> Pratt & Whitney only performed supply chain management services and was evaluated accordingly.

<sup>9</sup> The RFP advised that the agency would assess an adjectival relevancy rating of very relevant, relevant, somewhat relevant, or not relevant, and a quality assessment rating of exceptional, very good, satisfactory, marginal, unsatisfactory, or not applicable. RFP §§ M.2.3.2.2-2.3.2.3.



Relevancy Worksheets; see Air Force Email to Parties, Apr. 3, 2018 (confirming that the F2AST contract was awarded by the same program office as the COMBS III procurement). The PPET evaluated the past performance relevance and quality of JLS's five contracts as follows:

	Program Mgmt.		Supply Chain Mgmt.		Transition (Phase-In)	
<b>E-6B I</b>	Relevant	Exceptional	Relevant	Exceptional	Relevant	Very Good
<b>E-6B II</b>	Relevant	Very Good	Relevant	Exceptional	Relevant	Satisfactory
<b>TSSR</b>	Relevant	Very Good	Relevant	Exceptional	Relevant	Very Good
<b>F2AST</b>	Relevant	Very Good	-	-	-	-
<b>P&amp;W</b>	-	-	Very Relevant	Very Good	-	-

AR, Tab 28, Final SSEB Rep., at 46. With respect to the F2AST contract, the PPET found that while IAP had not provided overarching supply chain management services, IAP had provided program management services in support of the T-6 fleet, IAP was responsible for the overhaul of 60 P&W engines, and IAP met or exceeded contract requirements. See AR, Tab 17, Final JLS Past Perf. Confidence Worksheet; Tab 25, Final JLS Relevancy Worksheet (F2AST), at 1-3.

#### Past Performance Relevance

DynCorp argues the Air Force evaluated the relevance of JLS's past performance unreasonably and based on unstated evaluation criteria. DynCorp contends the agency applied unstated evaluation criteria because the evaluators, in making their assessments, relied on a past performance relevancy matrix that was not disclosed in the solicitation.<sup>10</sup> DynCorp Comments at 6-10. DynCorp also maintains that IAP's and

<sup>10</sup> As noted above, the RFP did not expressly define scope, magnitude, or complexity. The contracting officer explains that the agency developed a relevancy matrix with input from team members that developed the COMBS III requirements, to best determine key areas and approximate values that best represented similar scope, magnitude, and complexity with respect to fleet size, number of operating locations, and the quantity and dollar value of material and GFP managed. See Supp. COS at 8; AR, Tab 5, Relevancy Matrix. However, the contracting officer states that the PPET only used the matrix as a guide and that there were times when an evaluated contract was deemed relevant, even though it may not have met all of the matrix's criteria. See COS at 26 n.3.

KDA's contracts were not similar in scope, magnitude, and complexity to the three technical criteria. Id. at 14-20. In this respect, DynCorp contends the agency improperly considered IAP's F2AST contract, because the RFP explicitly provided that past performance must involve supply chain management to be considered relevant. Id. at 16-17. DynCorp argues that these flaws improperly inflated JLS's past performance confidence assessment to DynCorp's prejudice. Id. at 8.

We find the relevancy assessments unobjectionable. As an initial matter, we have consistently found that internal agency guidelines (such a source selection plans, technical evaluation instructions, or in this case, an evaluation matrix) do not give outside parties any rights; it is the evaluation scheme in the solicitation, not internal documents, to which the agency is required to adhere in evaluating proposals and in making the source selection. See, e.g., Alliant SB CTA, LLC, B-411842.6, Aug. 10, 2016, 2016 CPD ¶ 216 at 6 n.3; Burnside-Ott Aviation Training Ctr., Inc: Reflectone Training Sys., Inc., B-233113, B-233113.2, Feb. 15, 1989, 89-1 CPD ¶ 158 at 7. Thus, notwithstanding DynCorp's objections, the evaluators' reliance on a relevancy matrix to aid in their past performance evaluations provides no basis for DynCorp to challenge the Air Force's relevancy assessments. Id.

Moreover, DynCorp's arguments are based on a highly selective reading of the evaluation record. For example, DynCorp claims that IAP's and KDA's contracts "were too small compared to COMBS III to warrant a Relevant rating." DynCorp Comments at 18-19. For example, DynCorp points out that the COMBS III contract entails supporting a fleet of over 740 aircraft at 11 different locations, but that IAP's and KDA's contracts required support for less than 20 aircraft and at fewer geographic locations. See id. at 8, 19-19. However, DynCorp ignores, and does not dispute, the PPET's assessment that the IAP and KDA contracts involved significantly more complex aircraft and that KDA's contract involved continually changing performance locations throughout the world.<sup>11</sup> See id.; AR, Tab 17, Final JLS Past Perf. Confidence Worksheet, at 3; Tab 27, Final JLS Relevancy Worksheet (KDA), at 2. In other words, DynCorp overlooks that the RFP provided for the evaluation of not just the scope and magnitude of an offeror's past performance, but the complexity of those efforts as well. In any event, the solicitation, as stated above, did not expressly define scope, magnitude, or complexity, thereby affording the Air Force even greater discretion to determine the relevance of offerors' past performance. See, e.g., KIC Dev., LLC, B-309869, Sept. 26, 2007, 2007 CPD ¶ 184 at 3 (finding that where an RFP did not establish a contract dollar value for prior contracts, the agency could reasonably evaluate an offeror's past performance as relevant even in the absence of similarly valued prior contracts).

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<sup>11</sup> In contrast to the Beechcraft T-6A/B/D training aircraft with its single turboprop engine, the E-6B and E-8C are significantly larger, modified Boeing 707 aircraft with four turbofan engines and are used as airborne command posts. See AR, Tab 7, JLS Prop., at 17, 26; Tab 17, Final JLS Past Perf. Eval., at 1; supra n.2.

Furthermore, although DynCorp is correct that the RFP provided that past performance must involve supply chain management to be considered relevant, the protester has not shown it was unreasonable for the Air Force to consider IAP's F2AST contract, which was awarded by the same program office (JPATS) to support substantially the same requirements (overhauling engines) for the same fleet of T-6 aircraft. Under such circumstances, it was eminently reasonable for the Air Force to consider IAP's record of program management under the F2AST contract, notwithstanding the RFP's limitation on evaluating past performance contracts that did not include supply chain management activities. See, e.g., Gonzales Consulting Servs., Inc., B-291642.2, July 16, 2003, 2003 CPD ¶ 128 at 7 (finding that it was clearly reasonable for the agency to rely on the awardee's incumbent experience successfully performing the activities being competed, along with its highly regarded past performance of those activities, where the solicitation expressly advised offerors that the agency would evaluate experience and past performance); Air-Flo Cleaning Sys., B-259562.2, Jan. 18, 1996, 96-1 CPD ¶ 88 at 4 (denying protest where the protester had not demonstrated that it was unreasonable for the agency to rely on its direct experience with the incumbent in assessing the firm's past performance). In this respect, the RFP expressly reserved the agency's right to use all available information to fully assess an offeror's past performance. RFP § M.2.3.2.

In short, the record shows that the Air Force fairly, and extensively, assessed past performance relevance, giving due consideration to the type of aircraft, fleet size, number of operating locations, and quantity and dollar value of material and GFP managed. See AR, Tabs 92-94, Initial DynCorp Relevancy Worksheets; Tabs 13-16, Final DynCorp Relevancy Worksheets; Tabs 95-98, Initial JLS Relevancy Worksheets; Tabs 23-27, Final JLS Relevancy Worksheets. While DynCorp disagrees with the agency's assessments, the protester's disagreement, without more, provides no basis to sustain the protest. See, e.g., KIC Dev., LLC, supra; Poly-Pacific Techs., Inc., B-295496.3, Jan. 18, 2006, 2006 CPD ¶ 21 (denying protest of past performance evaluation where agency reasonably determined that the contracts referenced in the awardee's proposal were relevant).

#### Pratt & Whitney's Past Performance

DynCorp also contends that the Air Force improperly attributed to JLS and AAR the past performance of P&W. At issue here, the PPET, during its initial evaluations, sent the following evaluation notice (EN) seeking clarification from JLS:

The Past Performance information provided by the Offeror did not contain sufficient detail for the Government to ascertain which subcontractor(s) the offeror plans to use for Overhaul and Repair of the Engines. . . . Please identify for the Government which subcontractor(s) JLS plans to use for the Overhaul and Repair of Engines. Once identified, please provide the appropriate consent letter(s) . . . so the Government may complete their evaluation[.] The Government requests these clarifications only to identify proposed subcontractor(s); this is not an opportunity for you to revise or

amend your proposal. The narrative response is limited to 1 page in addition to the submittal of the appropriate consent letter(s).

AR, Tab 35, JLS EN, at 1-2. AAR received an almost identical EN. AR (B-415873.2), Tab 114, AAR EN, at 1-2.

JLS responded,

JLS did not propose any subcontractors. Instead, we performed an extensive competitive procurement bid analysis to identify qualified suppliers/vendors to support the JLS effort. Pratt & Whitney and Standard Aero were part of our extensive competitive procurement bid analysis to support Engine Overhaul and Repair of which both Companies submitted compliant and competitive proposals. After a thorough review of both proposals, JLS decided to select the Best Value Company who provides the least risk to the Government and use the [OEM], Pratt & Whitney. JLS provided the pricing from Pratt & Whitney with our initial proposal response and has received a letter of consent from Pratt & Whitney which JLS provides below.

AR, Tab 35, JLS EN, at 2-3. (We discuss AAR's response separately below.)

In its consent letter, P&W states that it is "currently participating as a Vendor" with JLS in response to the RFP. Id. at 4. The record indicates the PPET did not request additional past performance information from JLS in this respect, but instead relied on P&W's past performance information submitted by the other offerors, including the questionnaire submitted in response to DynCorp's proposal. See AR, Tab 26, Final JPTS Relevance Worksheet (P&W), at 1-2; Tab 30, P&W Past Perf. Questionnaire, at 1-9.

DynCorp objects, arguing that the Air Force "spoon-fed" JLS and improperly rewrote its proposal to reclassify P&W as a JLS subcontractor based on other offerors' proposals, including DynCorp's. DynCorp Comments at 3-5; DynCorp Supp. Comments at 3. Moreover, DynCorp maintains that nothing in JLS's past performance volume indicates that P&W will perform five or more percent of the effort. See DynCorp Supp. Comments at 3. In DynCorp's view, the Air Force should have rejected JLS's proposal as technically unacceptable for failing to include "a necessary subcontractor for engine overhaul work in its past performance proposal as required by the RFP." Id. DynCorp contends that AAR's proposal suffered from the same "incurable flaw" as JLS's proposal and should have been excluded from the competitive range. Id. at 3 n.4.

We find unobjectionable the agency's consideration of P&W's past performance record as part of JLS's or AAR's past performance evaluations. The RFP provided that the agency would evaluate the past performance of each subcontractor, teaming partner, or joint venture that would contribute more than five percent of the overall effort or is responsible for a key component or service. RFP §§ L.4.1.2, M.2.3.2.2. In this respect, the Air Force submitted a declaration from the PPET chairman explaining how the

evaluators determined that P&W would perform more than five percent of the effort.<sup>12</sup> See Supp. AR, Tab 122, Decl., ¶ 4. The chairman states there are only two vendors FAA-certified to work on T-6 engines--P&W and StandardAero. Id. According to the chairman, the PPET determined that engine overhaul and repair would account for more than five percent of the COMBS III effort, based on the evaluators' personal knowledge and discussions with advisors familiar with the JPATS program and COMBS II contract. See id. The chairman states that this effort was also consistent with the proposals of other offerors. See id. Significantly, DynCorp does not dispute that the engine overhaul and repair vendor will perform more than five percent of the effort. Moreover, DynCorp does not dispute P&W's past performance record or the PPET's findings in that regard.

Rather, DynCorp's arguments are based on the faulty premise that the RFP required offerors to propose a subcontracting agreement with an engine overhaul and repair vendor.<sup>13</sup> DynCorp's arguments are also based on the faulty premise that the RFP required the Air Force, as part of its past performance evaluation, to qualitatively assess the type of business relationship offerors proposed with that vendor. Contrary to DynCorp's insistence, nothing in the solicitation required that any business entity performing five percent or more of the work "be named as a subcontractor for purposes of considering past performance." DynCorp Supp. Comments at 3 n.5. Furthermore, nothing in the RFP "makes clear" that offerors were to list the engine overhaul and repair vendor as a subcontractor. Id. at 3.

In fact, the record shows that AAR, which as stated above received the same clarification request as JLS, questioned the PPET in light of the RFP's statements regarding the Air Force's small business contracting goals. See AR (B-415873.2), Tab 114, AAR EN, at 2. AAR explained that P&W would perform its engine overhaul work, but that AAR had proposed [DELETED]. See id. The PPET concluded that AAR

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<sup>12</sup> The Air Force states that the PPET only reviewed offerors' past performance proposals and did not review offerors' technical proposals. Air Force Email to Parties, Feb. 14, 2018.

<sup>13</sup> In this respect, we dismiss, for failure to state a valid basis of protest, AAR's contention that JLS's proposal was technically unacceptable because JLS allegedly failed to negotiate a teaming arrangement with Beechcraft. See AAR Protest at 9. As the Air Force points out, the RFP only required an offeror to propose a plan for establishing business relationships with specified OEMs, not that an offeror establish the relationship prior to proposal submission. See Req. for Dismissal (B-415873.2), Jan. 9, 2018, at 3-5; RFP § L.3.1.5; 4 C.F.R. § 21.5(f). Similarly, we dismiss AAR's supplemental protest that the Air Force should have found JLS's proposal technically unacceptable for failing to subcontract 23 percent of the effort to small businesses, because as the agency points out, this was not required by the RFP. AAR Comments at 5-7; Req. for Dismissal (B-415873.2), Feb. 14, 2018, at 2; 4 C.F.R. § 21.5(f).

had provided the requested information and sought no further information from AAR regarding P&W. Id. at 2-3.

In any event, even if DynCorp is correct that JLS and AAR failed to provide the necessary past performance information regarding their proposed engine overhaul and repair vendor, the Air Force could not properly disregard P&W's past performance in evaluating JLS's and AAR's proposals. We have found that where multiple offerors propose the same subcontractor (or in this case, [DELETED] or vendor), once the agency becomes aware of that subcontractor's experience, including from another firm's proposal, it cannot reasonably assign one proposal a higher score than another based on that experience. See BC Peabody Constr. Servs., Inc., B-408023, May 10, 2013, 2013 CPD ¶ 120 at 5; see also L&N/MKB, Joint Venture, B-403032.3, Dec. 16, 2010, 2010 CPD ¶ 298 at 5 ("We have found that where, as here, two firms propose the same subcontractor, an agency may not ignore the subcontractor's experience or past performance in evaluating the firms' proposals, even where one firm provided more information concerning the subcontractor in its proposal."); Consolidated Eng'g Servs., Inc., B-279565.2, B-279565.3, June 26, 1998, 99-1 CPD ¶ 75 at 6 (sustaining protest because once the agency became aware of the subcontractor's experience--whether from another awardee's proposal, personal knowledge, or otherwise--it could not reasonably assign to the protester different scores for experience and qualifications).

In sum, DynCorp has not shown that the Air Force acted unreasonably in considering P&W's past performance record in assessing the performance confidence of JLS or AAR, and we deny this aspect of DynCorp's protest accordingly.<sup>14</sup>

### Unequal Treatment

DynCorp maintains that the Air Force underrated the quality of DynCorp's past performance record and overrated the quality of JLS's record. DynCorp Comments at 12-16, 20-21. For example, DynCorp complains that it was unfairly assessed only a satisfactory rating for the quality of its program management of the C-21 contract, based on an incident in the final year of performance involving a subcontractor's use of an unauthorized paint stripper. Id. at 10. DynCorp contends that the PPET, in contrast, "downplayed" a serious information technology (IT) security issue experienced during IAP's final year of its E-6B I contract, and unfairly assessed a very good rating for its program management of that contract. Id. at 11. DynCorp asserts that if the Air Force had treated DynCorp and JLS equally, "then JLS should have received, at most, a Satisfactory rating for the 'Program Management' factor of the E-6B contract . . . ." Id. DynCorp's assertions lack merit.

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<sup>14</sup> In this respect, we dismiss, for failure to state a valid basis of protest, DynCorp's assertion that the agency's "improper evaluation of [P&W with respect to JLS's past performance] also raises considerable new questions regarding the Air Force's price evaluations . . . ." DynCorp Comments at 5; 4 C.F.R. § 21.5(f).

It is a fundamental principle of federal procurement law that a contracting agency must treat all offerors equally and evaluate their proposals evenhandedly against the solicitation's requirements and evaluation criteria. See, e.g., Brican Inc., B-402602, June 17, 2010, 2010 CPD ¶ 141 at 4. Although our Office will review an agency's evaluation of past performance to ensure that it was conducted reasonably and in accordance with the terms of the solicitation, the evaluation of an offeror's past performance is a matter primarily within the discretion of the contracting agency, since it is the agency that must bear the burden of any difficulties resulting from a defective evaluation, and we will not substitute our judgment for a reasonably based past performance rating. PEMCO World Air Servs., B-284240.3 et al., Mar. 27, 2000, 2000 CPD ¶ 71 at 7. Further, an agency's assessment of past performance may be based upon the procuring agency's reasonable perception of inadequate prior performance, even where the contractor disputes the agency's interpretation of the underlying facts. Id. In establishing its requirements and assessing offerors' past performance and relative abilities to perform those requirements, an agency's judgment in matters related to human safety and national defense carries considerable weight. Id.; see also The Austin Co., B-291482, Jan. 7, 2003, 2003 CPD ¶ 41 at 4-5 ("Our Office has long [found] that, where a procurement involves matters of human life and safety, an agency has greater discretion to establish requirements that achieve the highest possible level of reliability and effectiveness.").

In our view, DynCorp understates the PPET's evaluation of DynCorp's adverse past performance record, including the extent of the paint stripper incident and DynCorp's performance of the incumbent COMBS II contract. For example, citing the relevant CPARS report, the evaluation record states that: the subcontractor had lost its FAA certifications and that neither DynCorp nor the subcontractor had informed the Air Force of that fact; the subcontractor's use of the improper paint stripper grounded three aircraft for at least 3 months, forcing the Air Force to shuttle aircraft from site to site in order to mitigate the loss in flying operations; the subcontractor failed to install aileron hinge bearings on C-21s in accordance with technical orders, requiring a fleet-wide inspection of all C-21 aircraft; DynCorp's inability to accurately identify the problem indicated a management failure; on multiple occasions, DynCorp inaccurately informed the program office that parts were on order and would be shipped; and DynCorp incurred cost overruns without notifying the government. AR, Tab 11, DynCorp Past Perf. Quality Worksheet (C-21), at 2-4. DynCorp disputes none of these assessments in the record.

Instead, DynCorp complains that the Air Force "penalized [DynCorp] for the actions of a third party: a former subcontractor that has no involvement with, and is not relevant to, the COMBS III program." DynCorp Supp. Comments at 11. While an agency may properly consider past performance trends and corrective actions, an agency is not required to ignore instances of negative past performance. The Bionetics Corp., B-405145, B-405145.2, Sept. 2, 2011, 2011 CPD ¶ 173 at 7-8. Further, a prime contractor is generally responsible for the prior performance of its subcontractors. ViaSat, Inc., B-291152, B-291152.2, Nov. 26, 2002, 2002 CPD ¶ 211 at 8; Neal R. Gross & Co., Inc., B-275066, Jan. 17, 1997, 97-1 CPD ¶ 30 at 4.

Likewise, DynCorp does not dispute a number of other adverse past performance findings with respect to its COMBS II contract. For example, DynCorp does not dispute the PPET's finding that DynCorp had overhauled engine oil coolers without the consent of Beechcraft (the OEM), resulting in the government "currently operating aircraft under risk due to contractor negligence." AR, Tab 12, DynCorp Past Perf. Quality Worksheet (COMBS II), at 3. The accompanying CPARS report explains that, despite being issued a number of procuring contracting officer letters, DynCorp "continued to issue overhauled oil coolers, which the Tech[nical] Orders and the FFA prohibit . . . ." AR, Tab 61, COMBS II CPARS Rep., Oct. 28, 2016, at 11. The report states that exceeding the factored fatigue life of an engine oil cooler could result in a total loss of engine power due to oil starvation and an aircraft fire. Id.

However, the record also shows the evaluators recognized that "the bulk of [DynCorp's] relevant and recent past performance has been satisfactory . . . ." AR, Tab 8, DynCorp Final Past Perf. Worksheet, at 3. The PPET also acknowledged positive assessments by DynCorp's customers. See, e.g., AR, Tab 12, DynCorp Past Perf. Quality Worksheet (COMBS II), at 3 (observing that DynCorp had "performed exceptionally" in resolving an electronic instrument display obsolescence issue). The PPET also recognized that DynCorp had, for several years, received positive customer performance ratings and that "the majority of the [supply chain management] mishaps came directly from [DynCorp's] subcontractor . . . and was not the direct result" of DynCorp's supply chain management capabilities. AR, Tab 11, DynCorp Past Perf. Quality Worksheet (C-21), at 4.

With respect to adverse past performance by IAP (one of JLS's joint venture partners, discussed above), the record does not support DynCorp's contention that the Air Force underrated the awardee's adverse past performance record. For example, contrary to DynCorp's assertions, the agency recognized that IAP experienced a "major IT security issue regarding protecting information on th[e] highly sensitive [E-6B] program," but the evaluators noted that IAP immediately informed the government of the issue and took mitigating steps to improve its IT. AR, Tab 17, Final JLS Past Perf. Confidence Worksheet, at 2. The evaluators also noted that IAP's expeditious action resolved the issue and limited lapses, and the PPET concluded that the incident minimally impacted JLS's overall past performance confidence given the more limited sensitivity of the JPATS program [DELETED]. See id. These judgments are reasonable, adequately documented in the contemporaneous evaluation record, and consistent with the RFP's requirement that the PPET consider the number and severity of an offeror's adverse past performance, its mitigating circumstances, and the effectiveness of corrective actions. See RFP § M.2.3.2.3. While DynCorp disagrees with the evaluators' judgments, the protester has not shown that the agency acted unreasonably in evaluating JLS's past performance.

On the record before us, we are not persuaded that the agency treated DynCorp and JLS differently in evaluating the quality of their past performance or assessing past performance confidence. In the final analysis, DynCorp asks our Office to second guess the Air Force's conclusion that JLS's less relevant, but better past performance



record, provided a greater degree of performance confidence than DynCorp's more relevant, but inferior past performance record, including as the incumbent. These are precisely the types of subjective judgments that are firmly committed to a procuring agency's discretion, particularly where, as here, issues of national defense and human life and safety are involved. See LASEOD Grp., LLC, B-405888, Jan. 10, 2012, 2012 CPD ¶ 45 at 8 (denying protest of an agency's evaluation of the awardee's past performance to award a contract for clearance of unexploded ordnance and hazardous materials). The evaluation of experience and past performance, by its very nature, is subjective, and DynCorp's disagreement with the Air Force's evaluation judgments does not demonstrate that those judgments were unreasonable. See Glenn Def. Marine-Asia PTE, Ltd., B-402687.6, B-402687.7, Oct. 13, 2011, 2012 CPD ¶ 3 at 7.

We deny DynCorp's protest of the Air Force's past performance evaluations, accordingly. See DynCorp Int'l LLC, B-414647.3, Nov. 1, 2017, 2017 CPD ¶ 342 at 10-14 (denying protest that the Air Force failed to consider the awardee's adverse past performance and evaluated DynCorp and the awardee disparately in this respect).

#### Best-Value Tradeoff

Finally, DynCorp and AAR challenge the Air Force's source selection decision, arguing that the best-value tradeoff was unreasonable insofar as it relied on the allegedly flawed evaluations above.

As discussed above, the record does not support DynCorp's or AAR's assertions that the past performance evaluations were flawed. Therefore, we have no reason to question the SSA's reliance on the evaluators' assessments in conducting his tradeoff and best-value determination. While the protesters disagree with the SSA's decision, their disagreement provides no basis to question the reasonableness of the agency's judgments. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11. In sum, the record here adequately supports the Air Force's decision to award the COMBS III contract to JLS.

The protests are denied.

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General Counsel