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# Decision

**Matter of:** Quotient, Inc.

**File:** B-416473.6; B-416473.7

**Date:** July 30, 2019

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## DIGEST

1. Protest challenging the agency’s evaluation of protester’s technical quotation is denied where the agency’s evaluation, including consideration of creativity and innovation, was reasonable and consistent with the stated evaluation criteria.
  2. Protest challenging the agency’s evaluation of awardee’s technical quotation is denied where the agency reasonably considered the mix and level of awardee’s staffing as part of technical evaluation.
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## DECISION

Quotient, Inc., of Columbia, Maryland, protests the issuance of a blanket purchase agreement (BPA) to J.R. Reingold & Associates, Inc. (Reingold), of Alexandria, Virginia, under request for quotations (RFQ) No. 91995918R0001, issued by the Department of Education, National Assessment Governing Board (NAGB), for website services. Quotient contends the agency’s evaluation of vendors’ quotations and resulting award decision were improper.

We deny the protest.

## BACKGROUND

The NAGB is an independent, bipartisan 26-member board created by Congress to set policy for the National Assessment of Educational Progress (NAEP), also known as

“The Nation’s Report Card.”<sup>1</sup> Agency Report (AR), Tab 5, RFQ, Performance Work Statement (PWS) at 92. The NAGB develops policy in support of the NAEP by, among other things, identifying the subjects to be tested and setting the achievement levels for each academic progress assessment. Id. The NAGB’s website (www.nagb.gov) plays an integral role in the Board’s overall communication efforts with the agency’s constituents and the general public. Id. at 92-93.

The procurement here has been a long and contentious one.<sup>2</sup> The RFQ was issued on February 27, 2018, as a small business set-aside to holders of General Services Administration Federal Supply Schedule (FSS) contracts for information technology supplies and services (Schedule 70), pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 8.4. Contracting Officer’s Statement (COS) at 3; RFQ at 64, 149. The RFQ contemplated the issuance of a BPA under which fixed-price task orders would be placed for a base year with two 1-year options. RFQ at 65; RFQ amend. 1 at 169. In general terms, the PWS requires the contractor to provide all personnel, materials, and facilities necessary to successfully perform the specified NAGB website support tasks: (1) project management; (2) website design, content management, and site maintenance; (3) content management services for annual nominations campaign; (4) cloud hosting and management services for website; and (5) information management assurance and web security protocols. PWS at 96-114; RFQ at 67.

The RFQ established that award would be made on a “best value” tradeoff basis, using three evaluation factors in descending order of importance: technical; past performance; and cost/price (hereinafter, price). RFQ at 143. The technical factor was comprised of four subfactors: technical approach; management plan; project staffing; and organizational experience. Id.

Five vendors, including Reingold and Quotient, the incumbent, submitted quotations by the March 29 closing date.<sup>3</sup> COS at 14. An agency technical evaluation panel (TEP) evaluated vendors’ nonprice submissions using a point-scoring system that was set forth in the RFQ.<sup>4</sup> COS at 14. On June 1, the agency completed its evaluation of vendors’ quotations and selected Reingold for award.

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<sup>1</sup> References to page numbers throughout the decision are to the sequential numbering provided by the contracting agency in its report to our Office.

<sup>2</sup> Our decision in Quotient, Inc., B-416473.4, B-416473.5, Mar. 12, 2019, 2019 CPD ¶ 106, provides additional details concerning the history of this procurement.

<sup>3</sup> Although the evaluation record and the agency’s response to the protest here often refer to the receipt of “proposals” from “offerors,” the RFQ actually solicited “quotations” from “vendors.”

<sup>4</sup> The maximum point scores for the nonprice factors were as follows: technical approach (35 points); management plan (15 points); project staffing (25 points); organizational experience (15 points); and past performance (10 points). RFQ at 143.

On June 13, Quotient filed a protest with our Office challenging the evaluation of vendors' technical quotations and resulting selection decision. On July 30, the agency advised our Office that it intended to take corrective action by reevaluating vendors' technical quotations and making a new source selection decision. We then dismissed Quotient's protest as academic. Quotient, Inc., B-416473, B-416473.2, Aug. 3, 2018 (unpublished decision).

On October 24, the agency completed its reevaluation and again selected Reingold for award. On October 30, Quotient filed another protest with our Office challenging the agency's technical evaluation and award decision. On November 29, the agency advised our Office that it again intended to take corrective action by reevaluating vendors' business quotations and making a new selection decision. On December 3, our Office dismissed Quotient's October 30 protest, concluding the agency's corrective action rendered the protest academic. Quotient, Inc., B-416473.3, Dec. 3, 2018 (unpublished decision).

On December 6, Quotient then filed a protest challenging the scope of the agency's corrective action. Quotient argued, among other things, that because its allegations regarding the agency's technical evaluation were, in its opinion, meritorious, and because the corrective action did not remedy these errors, the corrective action was deficient. We dismissed Quotient's December 6 protest, finding the protester's assertions of improper evaluation to be premature inasmuch as an award decision had not yet been made. Quotient, Inc., B-416473.4, B-416473.5, Mar. 12, 2019, 2019 CPD ¶ 106 at 5.

The agency thereafter completed its final evaluation, with the point scores and prices of the Reingold and Quotient quotations as follows:

	Reingold	Quotient
<b>Technical</b>		
<b>Technical Approach (35)</b>	28.67	29.33
<b>Management Plan (15)</b>	14.00	14.00
<b>Project Staffing (25)</b>	23.33	21.67
<b>Organizational Experience (15)</b>	12.67	15.00
<b>Overall (90)</b>	78.67	80.00
<b>Past Performance (10)</b>	9.38	8.33
<b>Total (100)</b>	88.05	88.33
<b>Price</b>	\$1,801,906	\$2,256,443

AR, Tab 8, TEP Report at 361; Tab 11, Source Selection Decision (SSD) at 405, 413.

The TEP also identified strengths and weaknesses in the vendors' quotations in support of the point scores assigned. For example, with regard to Quotient's technical

approach, the agency evaluators found five strengths and six weaknesses. AR, Tab 8, TEP Report at 362-363.

The contracting officer, as source selection authority (SSA), subsequently received and reviewed the evaluators' findings.<sup>5</sup> AR, Tab 11, SSD at 401-409. The SSA found the Reingold and Quotient quotations, under both the technical and past performance factors, to be essentially equal in merit. *Id.* at 409, 413. The SSA concluded that insofar as the Reingold's price was significantly lower than Quotient's, "among two almost equally qualified [vendors]," Reingold's quotation represented the overall best value to the government. *Id.* at 414.

The agency provided Quotient with notice of award to Reingold on April 17, and a brief explanation of its award decision on April 22. This protest followed.

## DISCUSSION

Quotient's protest raises several issues regarding the agency's evaluation of vendors' quotations. First, Quotient argues that the agency's evaluation of its technical quotation was unreasonable. Quotient also contends the agency performed a flawed evaluation of Reingold's technical quotation.<sup>6</sup> We have considered all of the protest issues and arguments raised by Quotient, and although we do not address them all, find they provide no basis on which to sustain the protest.

### Technical Evaluation of Quotient

Quotient contends the evaluation of its technical quotation was improper. Specifically, the protester maintains the weaknesses assessed under various technical subfactors for the vendor's lack of innovation, creativity, and/or proposed improvements were improper. Protest at 9-15; Comments at 14-16. The agency argues that the evaluation of Quotient was reasonable, as NAGB's desire for innovation and improvements to the performance of the required website services was part of the solicitation's stated evaluation criteria. Memorandum of Law (MOL) at 6-10; COS at 8. We agree.

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<sup>5</sup> The SSA generally accepted the evaluation findings and ratings of the Reingold and Quotient quotations, but did increase Reingold's past performance rating from 9.38 points to 9.88 points, which resulted in a corresponding increase to the overall nonprice score from 88.05 points to 88.55 points. AR, Tab 11, SSD at 409.

<sup>6</sup> Quotient initially protested that the agency failed to engage in meaningful discussions, and that the agency's evaluation of Reingold's past performance was unreasonable. Protest at 16-19; Supp. Protest at 10-13. Quotient subsequently elected to withdraw these additional protest grounds. Comments at 18; Quotient Letter to GAO, July 12, 2019 (Electronic Protest Docketing System Entry No. 29).

Where, as here, an agency issues an RFQ to FSS vendors under FAR subpart 8.4 and conducts a competition for the issuance of an order or establishment of a BPA, we will 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. DataSavers of Jacksonville, Inc., B-415113.2, Aug. 24, 2018, 2018 CPD ¶ 290 at 4; HP Enter. Servs., LLC, B-411205, B-411205.2, June 16, 2015, 2015 CPD ¶ 202 at 5. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate quotations or substitute our judgment for that of the agency; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. Electrosoft Servs., Inc., B-413661, B-413661.2, Dec. 8, 2016, 2017 CPD ¶ 7 at 5.

The PWS, which set forth the agency's substantive requirements, stated, "[t]he [NAGB] seeks a contractor to improve the efficiency and effectiveness of the [NAGB]'s website in communicating to key audiences. Offerors are invited to suggest innovative and creative improvements to the current infrastructure of the Board's website and propose initiatives" to attain goals that included, "[i]mprov[ing] current web content and functionality on all platforms" and "[d]eploy[ing] innovative approaches to use web technologies in cost-efficient ways to improve the effectiveness of the [NAGB]'s communications with the public." PWS at 94-95; see also PWS at 92 ("The [NAGB]'s website is constantly evolving and does not aim to be a static website").

Further, the solicitation's preparation instructions had, as part of the technical volume, a section labeled "Alternative Approaches," which stated: "[Vendors] are encouraged to suggest better, more efficient[,] or creative ways to conduct this work than have been outlined in the [PWS]. [Vendors] are also encouraged to suggest additional/alternative strategies that complement, update, or more appropriately address the requirements in the [PWS]." RFQ at 154-155. Similarly, the RFQ's technical approach subfactor stated that vendors "shall demonstrate a creative, feasible, and efficient project solution," and established that the agency would evaluate, among other things, whether a vendor's quotation demonstrated an "[i]n-depth understanding of each task and subtask to include . . . innovation," as well as "[d]emonstrated expertise and skills in innovative web management, reporting and design . . ." Id. at 144.

The TEP identified a total of 12 weaknesses in Quotient's technical quotation, many of which involved the vendor's lack of innovation and creativity, e.g., "Quotient did not specify how [it] would use web analytics to improve web experience and output," and "Quotient did not demonstrate a lot of innovation or creativity but rather simple improvements over current state," and "no new . . . approaches were offered in managing the work with technical and cost efficiencies." AR, Tab 8, TEP Report at 362-366.

Quotient challenges the propriety of the assigned lack-of-innovation weaknesses. The protester does not assert that its quotation, in fact, proposed various innovations the agency evaluators overlooked, nor does Quotient dispute the existence of the various RFQ provisions signaling the agency's desire for innovation as set forth above. See Comments at 14-16. Instead, the protester contends that "[t]hese weaknesses are part of the stated evaluation criteria, but reflect the unstated preferences that colored NAGB's entire evaluation of Quotient." Id. at 15. We simply find no merit to Quotient's assertion.

The record reflects the agency's evaluation of Quotient's technical quotation was reasonable and consistent with the stated evaluation criteria. First, as set forth above, the RFQ expressly and repeatedly stated--in the PWS, quotation preparation instructions, and evaluation criteria--that the agency desired an innovative solution and would appropriately take creativity and innovation into account as part its technical evaluation.<sup>7</sup> The TEP then reasonably considered and fully documented the extent to which it assessed Quotient's technical approach met this innovation requirement (e.g., "Quotient did not specify how [it] would use web analytics to improve web experience and output for [NAGB]'s stakeholders"). AR, Tab 8, TEP Report at 362. Moreover, we fail to see--and the protester fails to explain-- how its lack-of-innovation weaknesses could be "part of the stated evaluation criteria," and yet reflect an "unstated preference" by the agency. Comments at 15. In sum, technical innovation and creativity was a

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<sup>7</sup> Additionally, while a solicitation must inform vendors of the evaluation criteria, a solicitation need not specifically identify each and every element an agency considers during an evaluation where such elements are intrinsic to, or reasonably subsumed within, the stated evaluation factors. FAR § 8.405-2(c); Horizon Indus., Ltd., B-416222, B-416222.2, July 11, 2018, 2018 CPD ¶ 235 at 6; Leader Commc'ns., Inc., B-412819, B-412819.2, June 13, 2016, 2016 CPD ¶ 197 at 5. We have repeatedly found that, as here, in a best-value procurement in which proposals or quotations may be evaluated to distinguish their relative quality by considering the degree to which they exceed the minimum requirements or will better satisfy the agency's needs, innovation is an intrinsic part of the agency's technical evaluation. Millennium Space Sys., Inc., B-406771, Aug. 17, 2012, 2012 CPD ¶ 237 at 7 ("[W]e conclude that consideration of the level of innovativeness in a proposal was intrinsic to the agency's technical evaluation of the 'overall scientific and technical merits of the proposal' and was not improper."); McConnell Jones Lanier & Murphy, LLP, B-409681.3, B-409681.4, Oct. 21, 2015, 2015 CPD ¶ 341 at 8 ("It is self-evident, we think, that the innovative approaches proposed by an offeror to accomplish a specified task logically relates to the effectiveness of the offeror's technical approach."); NJVC, LLC, B-410035, B-410035.2, Oct. 15, 2014, 2014 CPD ¶ 307 at 10 (finding that innovations and creative approaches can properly be considered when determining the merits of an offeror's technical approach). Thus, the agency here could reasonably take into account the extent of innovation, even if unstated, as part of evaluating the quality of vendors' technical submissions.

stated agency preference, and a facet in which Quotient's quotation was reasonably found to be lacking.

Moreover, the interpretation of the solicitation now advanced by the protester is wholly at odds with the content of its own quotation. In this regard, Quotient itself, noted in its technical quotation the importance of innovation and creativity to the performance of the PWS tasks here.<sup>8</sup> Thus, it appears that the protester's litigation position--that innovation was essentially an unstated requirement and evaluation criterion--differs markedly from its view of the solicitation at the time of quotation submission. The integrity of the protest process, however, does not permit a protester to espouse one interpretation or position during the procurement, and then argue during a protest that the interpretation or position is unreasonable or otherwise improper. WingGate Travel, Inc., B-412921, July 1, 2016, 2016 CPD ¶ 179 at 8; Guardian Moving & Storage Co., Inc., B-410171, Nov. 6, 2014, 2014 CPD ¶ 334 at 5. In sum, we conclude that Quotient's interpretation of the RFQ now fails to give effect to the numerous and unequivocal RFQ language providing that innovation was an explicit part of the technical evaluation criteria, and we deny this allegation.

#### Technical Evaluation of Reingold

Quotient also challenges the evaluation of Reingold's technical quotation. Specifically, Quotient maintains the agency failed to reasonably consider Reingold's proposed level of effort as part of its technical evaluation. Supp. Protest at 4-10.

The RFQ established that, for the management plan subfactor, "[vendors] shall demonstrate the quality, adequacy, and reasonableness of the proposed management plan that assures successful project outcomes and mission needs," and one of the six aspects to be reviewed was "[a]ppropriate time commitments for the project director and all project staff, including consultants and subcontractors as appropriate with a level of effort by task . . . ." RFQ at 144-145. Also, as part of the technical approach subfactor, the RFQ established that the agency would evaluate vendors' quotations for, among other things, "[i]n-depth understanding of the nature, complexity, details and challenges of the range of activities to be performed . . . ." Id. at 144.

Reingold's technical quotation detailed the vendor's overall technical approach as well as its management and staffing plans. AR, Tab 19, Reingold Quotation, Vol. I, Technical Quotation at 506-525. Reingold's quotation also included a table setting forth the awardee's labor categories and amounts by PWS task, which totaled 4,101 hours

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<sup>8</sup> For example, within the executive summary of its technical quotation, Quotient stated "we will highlight how we are providing innovation and creativity to NAGB"; "we will demonstrate our personnel . . . can provide the performance improvements and efficiencies to meet all the PWS requirements"; and "[o]ur proposed solution offers NAGB multiple creative improvements." AR, Tab 6, Quotient Quotation, Vol. I, Technical Quotation, at 198.

annually.<sup>9</sup> Id. at 523. By comparison, the agency’s independent government cost estimate (IGCE) approximated a total of 4,350 hours annually, and Quotient proposed 6,940 hours annually. AR, Tab 17, IGCE at 454; Tab 6, Quotient Quotation, Vol. I, Technical Quotation at 207. Reingold’s proposed level of effort was higher than the IGCE for two PWS tasks, and lower than the IGCE for three tasks.<sup>10</sup> See AR, Tab 11, SSD at 411. The total difference between Reingold’s proposed staffing level and the IGCE is approximately 6 percent. Supp. Comments at 6.

The TEP was aware of and considered Reingold’s proposed staffing levels as part of its technical evaluation. AR, Tab 22, TEP Member Declaration at 1-2. The agency evaluators concluded that Reingold’s management plan included appropriate staffing levels and time commitments, and that Reingold’s technical approach demonstrated the awardee’s understanding of the nature and complexity of the PWS requirements.<sup>11</sup> Id.; Tab 8, TEP Report at 363-364 ([t]he staffing . . . [is] adequate to fulfill and monitor all tasks”). The SSA also reviewed and considered Reingold’s proposed level of effort when making her award decision. AR, Tab 11, SSD at 410-411; Supp. COS at 430. The SSA determined that Reingold’s project management structure “assured [her] that the proposed level of effort and labor mix . . . were indeed reasonable to perform the tasks in the RFQ.” Supp. COS at 430.

Quotient argues the agency improperly evaluated Reingold’s level of effort. Specifically, Quotient alleges that, for those particular PWS tasks where Reingold’s staffing level differed markedly from the IGCE amount, Reingold did not understand the task requirements and the agency failed to reasonably assess the adequacy of Reingold’s staffing. Supp. Protest at 4-10; Supp. Comments at 4-9. We disagree.

As a preliminary matter, we note that Quotient focuses on those PWS tasks where Reingold’s staffing is understated, when compared to the IGCE, and generally ignores (or misstates) those instances where Reingold’s staffing is comparably overstated. The RFQ, however, contemplates ordering the required website services in the aggregate; there is but one contract line item for all required services for each performance period. RFQ at 65. Thus, while the protester essentially “cherry-picks” staffing comparisons at the PWS task level, it is a vendor’s total staffing for all PWS tasks at which performance

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<sup>9</sup> Reingold also included its staffing levels and mix in its business quotation, which the agency considered as part of Reingold’s price evaluation.

<sup>10</sup> Quotient misstates the IGCE amount in one regard. Specifically, with regard to PWS Task 2, the IGCE was 2,485 hours (not 2,845 hours) annually. Compare AR, Tab 17, IGCE at 454, with Supp. Protest at 5 and Supp. Comments at 6. Consequently, Quotient also misstates that Reingold proposed fewer hours than the IGCE for this task when Reingold actually exceeded the IGCE amount (2,521 hours annually in Reingold’s quotation as compared to 2,485 hours annually in the IGCE). Supp. Comments at 6.

<sup>11</sup> The TEP did not possess the IGCE when evaluating vendors’ technical quotations. Supp. COS at 430.



will actually occur. Moreover, Quotient does not allege that Reingold's total proposed staffing--which is within 6 percent of the IGCE--indicates a lack of technical understanding of the total requirements. See Supp. Comments at 4-9.

We also find the agency's evaluation of Reingold's staffing levels to be reasonable. The assessment of a vendor's proposed staffing level was not a stand-alone evaluation factor, but a component of the management plan and technical approach evaluation criteria. As set forth above, the management plan subfactor was to assess the "quality, adequacy, and reasonableness of the proposed management plan . . . [to] assure[] successful project outcomes and mission needs," of which one aspect to be reviewed was "[a]ppropriate time commitments . . . with a level of effort by task." RFQ at 144-145. Likewise, the technical approach subfactor was to evaluate, among other things, a vendor's overall "understanding of the nature, complexity, details and challenges of the range of activities to be performed," and not to evaluate a vendor's staffing levels per se. Id. at 144.

The record also reflects the TEP reasonably considered both Reingold's staffing levels and labor mix as part of the vendor's overall management plan, and found them to be adequate to fulfill all PWS tasks. AR, Tab 8, TEP Report at 363-364; Tab 22, TEP Declaration at 1-2. The agency evaluators also reasonably found Reingold's technical approach demonstrated its overall understanding of, and ability to successfully perform, the stated tasks. AR, Tab 8, TEP Report, at 362. This determination is supported by the six strengths which the TEP identified in Reingold's technical approach, none of which Quotient disputes. The SSA also reasonably found Reingold's proposed level of effort and labor mix sufficient to perform the PWS tasks, and that it was but one aspect of a comprehensive project management structure. Supp. COS at 430. There was simply no requirement, as Quotient contends, that the agency determine whether a vendor's staffing for each PWS task aligned exactly with the IGCE amounts and/or labor categories in order to be considered adequate.

Lastly, Quotient alleges the RFQ did not accurately reflect the agency's needs, as evidenced by the fact that the IGCE contained relatively few hours for the performance of the web hosting task (PWS Task 4). Supp. Comments at 9-10. The protester essentially argues the solicitation did not provide sufficient information to compete intelligently. We disagree. As a general rule, a solicitation must be drafted in a fashion that enables vendors to intelligently prepare their quotations and must be sufficiently free from ambiguity so that vendors may compete on a relatively equal basis. See Phoenix Env'tl. Design, Inc., B-411746, Oct. 14, 2015, 2015 CPD ¶ 319 at 3. There is no requirement, however, that a competition be based on specifications drafted in such detail as to completely eliminate all risk or remove every uncertainty from the mind of every prospective vendor. Id. Here, the RFQ made no representations regarding the number of hours required for any of the PWS tasks and, as the protester acknowledges, expressly informed vendors that web hosting would likely transition to a centralized agency hosting platform. PWS at 109 ("The external hosting solution is subject to change during the base contract year as the Department of Education is currently in the process of implementing its web consolidation directive for all websites."); Supp.

Comments at 10. Even without disclosing the IGCE's labor hours, the RFQ clearly provided vendors with notice of the transitory nature of the web hosting services. Thus, disclosure of the IGCE estimated labor amounts was not required here--for PWS Task 4 or any other tasks--in order for vendors to intelligently prepare their quotations and to compete on a relatively equal basis. Accordingly, we find no merit to this allegation.

The protest is denied.

Thomas H. Armstrong  
General Counsel