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# Decision

**Matter of:** Poplar Point RBBR, LLC

**File:** B-417006.2; B-417006.3

**Date:** September 3, 2019

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## DIGEST

Protest that agency erred in excluding the protester from competition for a long-term lease is denied where the solicitation required a range of amenities located near the proposed building, but the proposed site contained no existing amenities, and the protester did not provide satisfactory proof that amenities would exist during the lease term.

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## DECISION

Poplar Point RBBR, LLC (Poplar Point), of Washington, DC, protests its exclusion from competition under request for lease proposals (RLP) 5DC0392 issued by the General Services Administration (GSA), Public Buildings Service, for the long-term lease of a property or properties to serve as the headquarters for the Securities and Exchange Commission (SEC). The protester contends that the agency erred in evaluating the protester's proposal, applied unstated evaluation criteria, failed to conduct meaningful discussions, and engaged in disparate treatment.

We deny the protest.

## BACKGROUND

Currently, the SEC leases three buildings, which collectively house the SEC's headquarters. Memorandum of Law (MOL) at 2. The three existing leases will expire on September 30, 2023. Id. On July 10, 2018, GSA issued the RLP on behalf of the SEC seeking to lease up to 1,274,000 square feet of office and related space for an

initial term of 15 years, with a fixed-price option to renew the lease for 10 additional years for a total of 25 years. Id. at 3. The RLP indicated that the lease would be awarded on a lowest-priced technically acceptable (LPTA) basis. Agency Report (AR), exh. 16, RLP at 20.

Among other technical requirements, the RLP required that certain amenities be located near the offered building or buildings during the lease term. Id. at 3. Specifically, the RLP, as amended, required that various amenities capable of accommodating 4,500 employees and contractors, as well as a significant number of visitors, be located within 2,640 walkable, linear feet of the offered building. AR, exh. 9, RLP Amendment, at 1-2. The RLP additionally provided a list of examples of desired amenities, including: (1) a variety of fast-food, moderately priced dine-in, and table-service restaurants, operating during early morning and evening hours, as well as during a normal business day so as to provide a variety of options for breakfast, lunch, and dinner; (2) a post office or mailing facility; (3) a pharmacy; (4) dry cleaners; (5) coffee shop(s); and (6) bank(s). RLP at 3. Finally, the initial RLP required offerors to demonstrate either that the amenities currently existed, or to demonstrate to the government's reasonable satisfaction that the amenities would exist by the government's occupancy date. Id.

On September 4, 2018, Poplar Point submitted an initial offer, in which it proposed to build a single building to serve as the SEC headquarters at 601 Howard Road, SE, Washington, D.C. AR, exh. 4, Poplar Point Initial Offer. There are presently no amenities of the type specifically contemplated by the RLP within 2,640 walkable linear feet of the proposed building site.<sup>1</sup> See AR, exh. 13, Amenities Study, at 2-5. To address the requirements of the RLP, Poplar Point proposed to construct and maintain approximately [DELETED] square feet of retail space, and indicated that it arrived at that square footage based on the conclusions of independent analyses it commissioned. AR, exh. 4, Poplar Point Initial Offer, at 6. Additionally, Poplar Point's proposal included non-binding letters of interest<sup>2</sup> from several restaurants and cafes, a coffee shop, a dry cleaner, a sundry shop, and a bank, which all indicated interest in operating in the proposed retail space. Id. at 7-26.

On October 23, 2018, GSA conducted in-person discussions with Poplar Point, and on December 20, 2018, sent a letter summarizing those verbal discussions. AR, exh. 8, Deficiency Letter. Among other things, GSA informed Poplar Point that it viewed the lack of amenities near the building site to be a major deficiency of its offer. Id. at 1-2. Specifically, GSA noted that there were "no existing or committed future amenities" located within the required distance of the building. Id. Additionally, the letter noted that

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<sup>1</sup> A study performed by the agency's broker identified a barber shop as the sole existing retail amenity within the required distance. AR, exh. 13, Amenities Study, at 4-5. The protester does not dispute the absence of existing amenities.

<sup>2</sup> We note that the protester refers to these letters as "letters of intent," but the documents describe themselves as "letters of interest."

the offer made reference to independent analyses commissioned by Poplar Point, but did not include those analyses, so the agency was unable to determine whether the proposed amount of retail space was adequate to meet demand. Id. Finally, the agency indicated that the non-binding expressions of interest were not acceptable proof that the amenities requirement of the RLP would be met. Id.

Also on December 20, 2018, the agency issued an RLP amendment, which modified the amenities requirements. AR, exh. 9, RLP Amendment, at 1-2. Specifically, the amendment changed the relevant portion of the amenities section by adding the emphasized text:

[t]o meet these requirements, amenities must currently exist or the offeror must demonstrate to the reasonable satisfaction of the Government (i.e., through evidence of signed leases, construction contracts, letters of intent, etc.) that such amenities will exist by the Government's required occupancy date, and are substantially likely to remain active and viable at that location throughout the term of the Lease. The [lease contracting officer] may, at his or her sole discretion, accept evidence of amenities for which the offeror agrees to be contractually obligated to provide if awarded the lease. In such instances, those offered amenities shall be included in the final contract documents and subject to enforcement in accordance with the terms of the lease. Id. at 2 (emphasis in original)

On January 25, 2019, Poplar Point submitted a revised proposal, which significantly altered Poplar Point's proposed amenities. AR, exh. 11, Poplar Point Revised Proposal. Specifically, the proposal increased the proposed retail square footage to over [DELETED] square feet, in the form of [DELETED]. Id. at 8. Additionally, the revised proposal included two non-binding letters of understanding expressing interest in providing amenities, one from a bank, and one from a provider of catering and dining services, [DELETED], which expressed interest in providing employee dining, catering, a coffee bar, a mail room facility, a pharmacy, and a dry cleaner. Id. at 6-7. Finally, the proposal included a brief "Guarantee of Amenities" that indicated that Poplar Point would, among other things, "construct and operate the necessary facilities to provide the full range of amenities" required by the RLP. Id. at 5.

On May 20, 2019, GSA notified Poplar Point that its offer would not be further considered for award under the RLP. AR, exh. 15, Elimination Letter at 1. The agency indicated that the revised offer failed to establish, to the reasonable satisfaction of the government that the offered location had or would have the necessary amenities within the immediate vicinity in sufficient size and number. Id. The agency also concluded that Poplar Point's offer entirely failed to establish that the amenities would remain active and viable throughout the term of the lease. Id. This protest followed.

## DISCUSSION

The protester contends that the government erred in evaluating its proposal, applied numerous unstated evaluation criteria, treated offerors unequally, and failed to conduct meaningful discussions. See Protester's Comments at 7-43. First, the protester argues that the agency erred in its evaluation of the protester's proposal and applied evaluation criteria not stated in the solicitation, primarily because the RLP required offerors to provide evidence of amenities through signed leases, construction contracts, or letters of intent, and the protester's proposal included several letters of intent in addition to a proposed guarantee of amenities, which satisfied the minimum requirements of the RLP. Id. at 7-38. Second, the protester argues that the agency held its proposal to a different standard than the proposals of other offerors concerning amenities by requiring the protester to furnish additional proof of amenities not requested of other offerors, and ultimately rejecting the protester's proposal because further information was not provided. See Id. at 9-12. Finally, the protester argues that the agency did not conduct meaningful discussions because the agency did not adequately explain the nature of the agency's concerns with the protester's proposal. Id. at 38-43. We address these arguments in turn.

### Unstated Evaluation Criteria and Unreasonable Evaluation

The protester alleges that the agency's evaluation of its proposal went significantly beyond the evaluation criteria announced in the RLP in several respects. First, and most significantly, the protester contends that the agency established an unreasonably high bar for sites without existing amenities, despite the fact that the RLP contemplates that both sites with and without existing amenities can be found technically acceptable. Comments at 7-9. In this regard, the protester points to portions of the Contracting Officer's Statement (COS), in which the contracting officer notes that the RLP assumes the existence of an established set of amenities, and that offerors proposing sites that lacked certain amenities could "overcome this deficiency" by establishing to the reasonable satisfaction of the government that the amenities would exist and would continue to exist, but that offerors proposing sites with no existing amenities faced "a high bar." Id. (citing COS at 2, 8). The protester contends that this demonstrates the agency impermissibly viewed sites without current amenities as per se deficient. Id. This, according to the protester, is inconsistent with the language of the RLP, which makes no distinction between sites with existing amenities and those without existing amenities. Id.

Additionally, the protester argues that the agency applied unstated evaluation criteria by rejecting its various letters of intent and guarantee of amenities as insufficiently detailed and non-binding. See Comments at 12-34. The protester contends that the RLP did not require binding letters of intent, nor did the RLP provide that such letters must take a particular form. Id. at 12-14; 33-34. The protester notes that its proposal included letters from various suppliers of amenities that collectively met the minimum requirements of the RLP, and the agency's objection to the non-binding nature of the letters and the lack of detail in certain letters amounts to the imposition of a higher

standard than that set out in the RLP. Id. at 16-22. Further, the protester contends that it exceeded the requirements of the RLP by providing a guarantee of amenities, but that the agency unreasonably rejected that guarantee. Comments at 14-15; 28-32. Specifically, the protester complains that the agency rejected its guarantee because it did not specify how the guarantee would be effectuated or what recourse and specific remedies would be available in the event of a breach, even though the RLP required none of this information. Id. But for the agency's application of these unstated criteria, the protester contends, a reasonable evaluation would have concluded that the protester's proposal met the requirements of the RLP.<sup>3</sup> See Id. at 16-22.

The evaluation of an offeror's proposal is a matter within the agency's discretion. See National Gov't Servs., Inc., B-401063.2 et al., Jan. 30, 2012, 2012 CPD ¶ 59 at 5; Serco Inc., B-406061.1, B-406061.2, Feb. 1, 2012, 2012 CPD ¶ 61 at 9. An offeror's disagreement with the agency's judgment, without more, is insufficient to establish that the agency acted unreasonably. STG, Inc., B-405101.3 et al., Jan. 12, 2012, 2012 CPD ¶ 48 at 7. While we will not substitute our judgment for that of the agency, we will question the agency's conclusions where they are inconsistent with the solicitation

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<sup>3</sup> Poplar Point's protest and supplemental protest included several additional arguments. Although they are not specifically addressed in this decision, we considered them and conclude that they do not provide a basis on which to sustain the protest. For example, the protester alleges that the agency erred because it relied on a study of retail amenities conducted by the agency's broker, when, among other things, that study contained errors. Comments at 15-16; 34-37. Specifically, the protester argues that the study erred in concluding that the protester's proposed site would have limited foot traffic and limited potential growth, because the site was bounded by major highways, a 100-year floodplain, a military base, and land owned by the National Park Service. Id. at 36-37 (citing AR, exh. 13, Amenities Study, at 3). First, we note that the record reflects that the agency primarily relied on the broker study for informational purposes to assess whether any amenities existed near the protester's current site as well as the ability of the area as it currently exists to support the required mix of amenities. AR, exh. 14, Findings and Determination for Poplar Point, at 5-6. The protester provided no evidence to rebut the underlying facts concerning the current topography of its proposed site. Instead, the protester argues that future land use patterns may change the existing situation by suggesting that its planned residential development will increase foot traffic, that future development may change the contours of the 100-year floodplain, and that the National Park Service may elect to permit development of its land. Comments at 35-37. While the agency's evaluation acknowledged the possibility of future changes (including Poplar Point's planned residential development), the agency remained concerned that, given the present isolation of the site, the SEC's staff and visitors could, in effect, be the primary consumers of amenities located in Poplar Point's proposed location, which would jeopardize the long-term viability and variety of amenities. AR, exh. 14, Findings and Determination for Poplar Point, at 5-6. On the record before us, we see no basis to conclude that the agency's concern was unreasonable or that it otherwise erred in relying on the study.

criteria and applicable procurement statutes and regulations, undocumented, or not reasonably based. Public Commc'ns Servs., Inc., B-400058, B-400058.3, July 18, 2008, 2008 CPD ¶ 154 at 17.

As a preliminary matter, we note that the protester's primary argument, that the agency impermissibly viewed sites without existing amenities as per se deficient, reflects a fundamental misreading of the solicitation and the agency's position. Contrary to the protester's repeated suggestion, the RLP expressly distinguishes between sites with existing amenities and those without existing amenities. See AR, exh. 9, RLP Amendment, at 1-2. The RLP requires offerors proposing sites with existing nearby amenities to simply demonstrate that the amenities "currently exist." Id. at 2. By contrast, the RLP, as amended, requires offerors proposing sites that currently lack one or more of the required nearby amenities to "demonstrate to the reasonable satisfaction of the Government (i.e., through evidence of signed leases, construction contracts, letters of intent, etc.) that such amenities will exist by the Government's required occupancy date, and are substantially likely to remain active and viable at that location throughout the term of the Lease." Id. On its face, the RLP imposes a significantly higher evidentiary burden on offerors who propose sites lacking some or all of the required amenities.

Furthermore, sites lacking the amenities required by the RLP are, definitionally, technically unacceptable, unless the offeror can establish to the government's reasonable satisfaction that the amenities will exist and continue to exist over the term of the lease. Id. The contracting officer's remarks referenced by the protester do not establish that the agency applied an unstated evaluation criterion. Instead, they merely highlight the logical implications of the fact that the RLP, as amended, imposed a significantly more stringent standard of proof on offerors that proposed sites without existing amenities.

With respect to the protester's arguments concerning the letters included with its initial and revised proposal, we find this argument to be unpersuasive. First, as the agency notes, the letters, which the protester describes as "letters of intent," are not self-described as letters of intent, but rather letters of interest, or letters of understanding. MOL at 12-13. Similarly, the protester's guarantee of amenities also refers to them as "letters of interest," not as letters of intent. AR, exh. 11, Poplar Point Revised Offer, at 5. More importantly, the letters in question are uniformly non-binding expressions of interest, and in some cases it is not clear that the letters were signed by the counterparty. See, e.g., AR, exh. 4, Poplar Point Initial Offer, at 13-14. Accordingly, it is not clear, as an initial point, that the submitted letters of interest and understanding are appropriately considered to be letters of intent as contemplated by the RLP as satisfactory proof of amenities.

Furthermore, even assuming for the sake of argument that the submitted letters constitute letters of intent as contemplated by the solicitation, we find unconvincing the protester's argument that merely submitting letters of intent, regardless of their actual terms, was sufficient to meet the requirements of the RLP. The RLP provided that an

offeror must establish to the agency's reasonable satisfaction that the amenities would exist and continue to exist, and identified letters of intent as one way that the protester could potentially establish the existence of amenities. AR, exh. 9, RLP Amendment, at 1-2. The protester's argument that merely having submitted letters of intent should be sufficient, suggests that, in the protester's view, any evaluation of the form or content of the submitted letters would constitute an unstated evaluation criterion, which is an irrational position.

That is especially so here, where the submitted letters fail to establish key elements of the requirements of the RLP. For example, while the letters generally express an interest in operating an amenity near the protester's proposed site, only two of the letters address the question of continued operations throughout the term of the lease in any way.<sup>4</sup> See AR, exh.11, Poplar Point Revised Offer, at 6-7. Furthermore, the RLP required, among other things "[a] variety of fast-food, moderately priced dine-in, and table-service restaurants, operating during early morning and evening hours, as well as during a normal business day so as to provide a variety of options for breakfast, lunch, and dinner." AR, exh. 9, RLP Amendment, at 1. The submitted letters uniformly do not address hours of operation, and so fail to address the requirements of the RLP.

Relatedly, as part of its revised proposal, the protester included a letter of understanding with [DELETED] which contemplated that [DELETED] would be willing to negotiate with the protester to provide a range of amenities including employee dining and catering services. AR, exh.11, Poplar Point Revised Offer, at 7. However, the notional amenity building floor plan provided by the protester includes only one large undifferentiated dining area and a similarly undifferentiated "servery" and kitchen space. AR, exh.11, Poplar Point Revised Offer, at 8. On review, the agency concluded that the floor plan, combined with [DELETED]'s letter, suggested a single cafeteria or food court, which called into question whether the protester was proposing to provide the required variety of restaurants. AR, exh. 14, Findings and Determination for Poplar Point, at 3-4.

The protester contends in response that the RLP did not require detail concerning the day-to-day operations of its amenity providers. Supp. Comments at 10-11. However, the RLP clearly required that sites must have a "variety of fast-food, moderately priced dine-in, and table-service restaurants" nearby. RLP at 3. It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements, and an offeror risks having its proposal evaluated unfavorably where it fails to submit an adequately written proposal. See International Med. Corps, B-403688, Dec. 6, 2010, 2010 CPD ¶ 292 at 8; STG, Inc., B-411415, B-411415.2, July 22, 2015, 2015 CPD ¶ 240 at 5-6. Agencies are not required to infer information from an inadequately detailed proposal, or to supply

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<sup>4</sup> The two letters that address the issue of continued operation address it only as an area of mutual understanding, not as an expression of intent or a legally binding obligation. See AR, exh.11, Poplar Point Revised Offer, at 6-7

information that the protester elected not to provide. Optimization Consulting, Inc., B-407377, B-407377.2, Dec. 28, 2012, 2013 CPD ¶ 16 at 9 n.17. Given that the notional floor plan strongly suggests a cafeteria or food court dining layout, and there are no further details in the protester's revised proposal about the planned arrangement or operation of the dining space, we cannot conclude that the agency's uncertainty about the protester's planned amenities was unfounded. Accordingly, for several independent reasons, the agency was not unreasonable in finding that the submitted letters did not establish that the amenities required by the RLP would exist and continue to exist.

With respect to the protester's arguments concerning the agency's rejection of the guarantee of amenities, those arguments are also without merit. Specifically, the protester contends that its commitment to "construct and operate the necessary facilities to provide the full range of amenities required by RLP Paragraph 1.05" fully satisfied the requirements of the RLP. Comments at 28-32. The protester also notes that the guarantee indicated the protester's intent to retain [DELETED] to coordinate and oversee the operation of the amenities, and highlighted the other letters of interest the protester had received. Id.

However, as the agency notes, the guarantee provides no additional detail concerning the specific type, number, or mix of amenities guaranteed,<sup>5</sup> the protester's technical approach to effectuating the guarantee, or what remedies would be available to the agency if the amenities were ultimately not available as required. AR, exh. 14, Findings and Determination for Poplar Point, at 5. Accordingly, the agency doubted whether the guarantee was even sufficiently definite to create an enforceable legal obligation. Id. Additionally, the agency also questioned, even were the guarantee enforceable to some extent, whether an agreement to construct and operate "the necessary facilities," in the absence of further detail, would serve to guarantee the operation of the necessary amenities (as distinguished from the facilities that would house them). MOL at 14.

Here, the protester responds that its guarantee incorporated the relevant RLP paragraph by reference, so was in no way indefinite, but rather constituted a guarantee to do precisely what was required by the RLP's amenities clause. Comments at 29-32. The protester contends, therefore, that the agency's rejection of the guarantee, on the basis that it lacked additional information, constituted the application of an unstated evaluation criterion or was otherwise unreasonable. Id. at 14-15; 29-32.

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<sup>5</sup> While the protester argues that its letters of interest and understanding demonstrate the type, number, and mix of amenities it offered, the letters are uniformly non-binding and the guarantee itself expressly notes that it is independent of any third-party agreements. See AR, exh.11, Poplar Point Revised Offer, at 5. Accordingly, the revised proposal cannot be fairly read as a guarantee that those specific amenities would be present.



However, an offeror's naked promise to perform in accordance with the requirements of a solicitation, without more, cannot be conclusive on an agency's technical evaluation where, as here, the solicitation required offerors to provide evidence to demonstrate that they would be able to meet the government's requirements. Our decisions have repeatedly concluded that a mere restatement of a solicitation's requirements without a description of how the offeror will accomplish those requirements is not sufficient to demonstrate an ability to perform the solicitation's requirements. See IVI Corp., B-310766, Jan. 23, 2008, 2008 CPD ¶ 21 at 3 ("merely restating the RFP's requirements is no better than a blanket offer of compliance"); Henry Schein, Inc., B-405319, Oct. 18, 2011, 2011 CPD ¶ 264 at 9; Integrate, Inc., B-296526, Aug. 4, 2005, 2005 CPD ¶ 154 at 3. Additionally, offerors were on notice, in this case, that the agency may or may not be willing to accept an offeror's guarantee in lieu of satisfactory proof of amenities. Specifically, the RLP provided that the contracting officer "may, at his or her sole discretion, accept" an offeror's guarantee concerning amenities an offeror intends to provide. AR, exh. 9, RLP Amendment, at 1-2

In this case, the agency's assessment that the protester's guarantee lacked any detail concerning the protester's technical approach to effectuating that guarantee led the agency to decline to accept that guarantee in lieu of satisfactory proof of amenities. AR, exh. 14, Findings and Determination for Poplar Point, at 5. Given the vagueness of the guarantee, and of the protester's approach to satisfying the amenities requirement in general, the agency's conclusion was not inconsistent with the terms of the RLP or otherwise unreasonable. Accordingly, we see no basis to object to the agency's conclusion that the protester's revised proposal was technically unacceptable.

### Disparate Treatment

The protester argues that, in rejecting its proposal, the agency impermissibly required significantly more proof concerning amenities from it than from other offerors. Protester's Comments at 9-12. For example, the protester notes that the agency penalized it for failing to include independent analyses of required retail space in its proposal, but did not request similar information from other offerors.<sup>6</sup> Id. at 11-12.

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<sup>6</sup> Additionally, the protester argues that this also represented the application of an unstated evaluation criterion. Protester's Comments at 11-12. However, in this case, the agency indicated in its discussion letter that it was unable to determine whether a notional [DELETED] square feet of retail space was adequate to meet the requirements of the RLP, because the protester had not included any supporting analysis. AR, exh. 8, Deficiency Letter at 1-2. The protester, in its revised proposal, did not explain how it arrived at the square footage quantity it estimated would be adequate, but instead simply doubled its previous estimate without any explanation or supporting analysis. See AR, exh.11, Poplar Point Revised Offer at 1, 8. As noted above, it is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements. See International Med. Corps, supra; STG, Inc., supra. Because the revised proposal did  
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Similarly, the protester contends that the agency rejected its proposal because it did not adequately demonstrate that the required amenities would continue to exist throughout the lease term, but that the agency did not inquire whether amenities offered by other offerors would continue to exist during the term of the lease. Id. at 9-10

As noted above, in reviewing an agency's evaluation, we will not reevaluate proposals, but will examine the record to ensure that it was reasonable and in accordance with the stated evaluation criteria and applicable procurement statutes and regulations. PMC Solutions, Inc., B-310732, Jan. 22, 2008, 2008 CPD ¶ 20 at 2. It is a fundamental principle of federal procurement law that a contracting agency must treat all vendors equally and evaluate their proposals evenhandedly against the solicitation's requirements and evaluation criteria. Rockwell Elec. Commerce Corp., B-286201 et al., Dec. 14, 2000, 2001 CPD ¶ 65 at 5. However, where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in the evaluation did not stem from differences between the offerors' proposals. IndraSoft, Inc., B-414026, B-414026.2, Jan. 23, 2017, 2017 CPD ¶ 30 at 10; Paragon Sys., Inc.; SecTek, Inc., B-409066.2, B-409066.3, June 4, 2014, 2014 CPD ¶ 169 at 8-9. Here, the protester has not made the requisite showing that the agency treated the offerors' proposals unequally. See Alphaport, Inc., B-414086, B-414086.2, Feb. 10, 2017, 2017 CPD ¶ 69 at 7.

In this case, the other offerors competing for this requirement offered existing buildings located near existing amenities; the protester is the only offeror that proposed to build an entirely new structure where none of the required commercial amenities exist. Supp. MOL at 21-22. As noted above, the RLP in this case imposes a significantly different evidentiary burden on offerors who propose sites with existing amenities than on those who propose sites lacking one or more existing amenities. AR, exh. 9, RLP Amendment, at 1-2. Specifically, the RLP only requires offerors proposing sites with existing amenities to demonstrate that they currently exist, but does not require any showing that existing amenities will continue to exist. Id. By contrast, the RLP required offerors proposing sites lacking existing amenities, such as the protester, to demonstrate to the agency's reasonable satisfaction that the amenities would exist and continue to exist. Id.

To demonstrate disparate treatment, the protester must show that the agency applied the same evaluation standards in different ways to different offerors. See Alphaport,

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not explain, in any way, how the protester determined that [DELETED] square feet of retail space was adequate to provide a mix of amenities capable of accommodating 4,500 employees and contractors, as well as a significant number of visitors, the protester's proposal failed to demonstrate an adequate technical approach to addressing the requirements of the RLP. See AR, exh. 9, RLP Amendment, at 1-2. Accordingly, the agency's evaluation in this respect appears reasonable and consistent with the evaluation criteria announced in the solicitation.

Inc., supra. However, in this case, the relevant evaluation standard for the protester was fundamentally different than that for the other offerors. Accordingly, even assuming the protester's factual allegations to be entirely true--and it is not clear that they are--the fact that the agency requested more and different kinds of evidence of amenities from the protester than it did for other offerors does not demonstrate impermissible disparate treatment because the RLP imposed a different evidentiary standard on offerors like the protester than it did on other offerors. Accordingly, this protest ground is denied.

### Meaningful Discussions

Finally, the protester argues that the agency did not engage in meaningful discussions, because the protester's revised proposal addressed the concerns the agency identified during discussions, but was still found unacceptable. Comments at 38-43. Specifically, the protester contends that the agency expressed concern about the fact that its letters of interest were not legally binding, and the protester provided a legally binding guarantee of amenities in its revised proposal to address that concern.<sup>7</sup> Id. Additionally, the protester contends that the agency did not express concern about the continued viability of its proposed amenities during discussions, even though that issue significantly contributed to the agency's conclusion that the revised offer was technically unacceptable. Id. at 43. The protester maintains that its revised offer was fully

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<sup>7</sup> Preliminarily, we note that the parties do not agree about the content of the oral discussions and some subsequent oral communications. The protester contends that agency representatives indicated that retaining [DELETED] and providing a guarantee of amenities would fully address the agency's concerns, and the fact that the agency subsequently rejected the revised proposal proves that the discussions were misleading as well as not meaningful. Comments at 38-39. By contrast, the agency denies that it indicated that any specific technical approach would be acceptable during the oral discussions. Supp. MOL at 26. In support of its position, the agency has provided the contracting officer's signed testimony, a meeting agenda, and contemporary written notes on the discussion meeting, all of which support the agency's position that it did not tell the protester that any specific approach would be found acceptable. See COS at 5-6; AR, exh. 5, Discussion Agenda; and AR, exh. 6, Discussion Notes. Additionally, the agency's evidence is entirely consistent with the agency's subsequent discussion letter to the protester summarizing the oral discussions. See AR, exh. 8, Deficiency Letter at 1-2. By contrast, while the protester describes its view of the oral discussions and refers to subsequent communications with the agency in support of its position, the protester has not offered sworn declarations or any other evidence that rebuts the agency's account or otherwise supports its own characterization of the oral discussions and subsequent exchanges. Comments at 42-43. Rather, the protester contends that "[t]he fact that the parties cannot agree on what was discussed during discussions only serves to underscore the imprecise manner in which discussions were conducted." Supp. Comments at 21. On the record before us, we conclude that the agency's account of the oral discussions is credible, and accordingly find the protester's allegation that the agency misled it during discussion to be meritless.

responsive to the concerns expressed by the agency during discussions, and that to the extent the agency had additional concerns the discussions were not meaningful. Id. at 38-43.

Agencies have broad discretion to determine the content and extent of discussions, and we limit our review of the agency's judgments in this area to a determination of whether they are reasonable. InfoPro, Inc., B-408642.2, B-408642.3, Dec. 23, 2014, 2015 CPD ¶ 59 at 9. When an agency engages in discussions with an offeror, the discussions must be meaningful, that is, sufficiently detailed so as to lead an offeror into the areas of its proposal requiring amplification or revision in a manner to materially enhance the offeror's potential for receiving the award. FAR § 15.306(d); Cubic Simulation Sys., Inc., B-410006, B-410006.2, Oct. 8, 2014, 2014 CPD ¶ 299 at 12. The requirement that discussions be meaningful, however, does not obligate an agency to spoon-feed an offeror or to discuss every area where the proposal could be improved. FAR § 15.306(d)(3); Insignia-Spectrum, LLC, B-406963.2, Sept. 19, 2012, 2012 CPD ¶ 304 at 5. The degree of specificity required in conducting discussions is not constant and is primarily a matter for the procuring agency to determine. Kathpal Technologies, Inc., B-291637.2, Apr. 10, 2003, 2003 CPD ¶ 69 at 3.

Here, the agency's discussion letter indicated that amenities were a "major deficiency" of the protester's proposal. AR, exh. 8, Deficiency Letter at 1. Additionally, the agency explained that it could not assess whether the proposed retail square footage was adequate because the protester had not provided the underlying analysis referenced in its proposal. Id. Finally, the agency noted that the protester's non-binding letters of interest were not acceptable proof of amenities. Id. at 1-2. Furthermore, on the same day the agency issued the discussion letter, the agency also amended the solicitation to provide that offerors proposing sites without existing amenities must demonstrate to the agency's reasonable satisfaction, not only that the amenities would exist when the lease term began, but also that the amenities would continue to exist throughout the term of the lease. AR, exh. 9, RLP Amendment, at 1-2.

In this case, the protester's revised proposal was not rejected because the agency failed to lead the protester into the areas of its proposal that required amplification or revision, but rather because the revised proposal simply did not adequately respond to the agency's clearly expressed concerns. First, as noted above, the protester's revised proposal did not provide any rationale or analysis explaining how its proposed retail square footage would accommodate the SEC's staff and visitors. See AR, exh.11, Poplar Point Revised Offer at 1, 8. Second, while the protester's revised proposal provided two additional letters of understanding, they were non-binding and essentially similar to the initial letters of interest, which the agency previously indicated would not be acceptable proof of amenities. See AR, exh.11, Poplar Point Revised Offer at 6-7. Additionally, while the protester provided a guarantee of amenities, for the reasons discussed above, that guarantee was inadequately detailed and did not provide meaningful assurance that the required amenities would exist or continue to exist. See AR, exh. 11, Poplar Point Revised Offer at 5.

Finally, contrary to the protester's claim that the agency did not express concern about the continued viability of amenities, the agency issued a solicitation amendment during discussions specifically requiring offerors to address the continued viability of amenities. AR, exh. 9, RLP Amendment, at 1-2. Furthermore the discussion letter sent to the protester noted that the protester's offer failed to demonstrate that the required amenities would be present "at occupancy or throughout the term of the [l]ease," and referred the protester to the relevant RLP section "as amended." AR, exh. 8, Deficiency Letter at 1-2.

To summarize, the discussions conducted by the agency clearly put the protester on notice of the specific ways in which its proposal was deficient, but the protester's revised proposal did not adequately address the agency's expressed concerns. As noted above, it is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements. See International Med. Corps, supra; STG, Inc., supra. We cannot conclude on the record before us that the agency erred in the conduct of discussions.

The protest is denied.

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