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Decision

Matter of: ActioNet, Inc.

File: B-417173; B-417173.2

Date: March 5, 2019

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DIGEST

Protest that the agency unreasonably evaluated the protester’s quotation is denied where the record shows that the agency’s evaluation was consistent with the solicitation and applicable procurement statutes and regulations.

DECISION

ActioNet, Inc., of Vienna, Virginia, protests the issuance of a blanket purchase agreement against the Federal Supply Schedule to Accenture Federal Services, LLC, of Arlington, Virginia, under request for quotations (RFQ) No. DE-SOL-0008790, issued by the Department of Energy (DOE) for information technology (IT) services. ActioNet, the incumbent contractor, alleges that the agency unreasonably evaluated quotations and improperly made its source selection decision.

We deny the protest.

BACKGROUND

On November 15, 2017, the agency issued the RFQ to all Schedule 70, Special Item Number 132-51, IT Professional Services contract holders. Consolidated Contracting Officer’s Statement of Facts and Memorandum of Law (COS/MOL) at 4; Agency Report (AR), Tab A.1, Conformed RFQ (RFQ) at 3. The RFQ contemplated the issuance of a

blanket purchase agreement (BPA) against which orders could be placed over a 1-year base period and four 1-year option periods with a total estimated value of \$2 billion. RFQ at 4, 14. Orders would be issued on a fixed-price, labor-hour, time-and-materials, or hybrid basis. Id. at 5. The selected contractor would be expected to provide support in shared services, general IT support services, telecommunications, cybersecurity, and analysis and studies. Id.

The RFQ provided for award on a best-value tradeoff basis considering the following factors, in descending order of importance: past performance, management approach, technical approach, and price. Id. at 696. Unlike the other factors, price would not be assigned an adjectival rating. Instead, the agency would evaluate price for compliance with instructions, completeness, and reasonableness. Id. at 705. Price would also be evaluated based on the percentage of proposed labor rates within two standard deviations of the mean labor rate, proposed initial BPA order pricing, and the proposed load on the ratio of other direct costs to direct materials purchases. Id. at 705-707.

Six vendors, including ActioNet and Accenture, submitted quotations prior to the March 13, 2018, closing date. COS/MOL at 8. The agency assigned the following non-price adjectival ratings to ActioNet’s and Accenture’s quotations:

	ActioNet	Accenture
Past Performance	Satisfactory	Outstanding
Management Approach	Satisfactory	Good
Technical Approach	Satisfactory	Good
BPA Labor Rates	[DELETED]	[DELETED]
Initial Order Pricing	[DELETED]	[DELETED]
Load on ODCs/Direct Materials Purchased	[DELETED]	[DELETED]

AR, Tab B.4, Evaluation and Basis of Award Decision (EBAD), at 9. After evaluating quotations, the agency determined that Accenture’s quotation offered the best value. Id. at 20. When comparing the quotations of ActioNet and Accenture, the agency determined that Accenture’s quotation was more advantageous primarily because it had a technically superior quotation. Id. at 14. The agency also noted that ActioNet’s pricing advantage was illusory because its proposed initial BPA order pricing was unrealistically low. Id. The instant protest followed.

DISCUSSION

ActioNet raises various challenges to the agency’s evaluation and source selection decision. We have considered all of the allegations raised and find no basis to sustain the protest. We discuss ActioNet’s principal allegations below, but note at the outset that, in reviewing protests challenging an agency’s evaluation of quotations pursuant to

a formal competition for the establishment of a BPA, our Office does not reevaluate quotations or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. Complete Packaging and Shipping Supplies, Inc., B-412392 et al., Dec. 1, 2016, 2016 CPD ¶ 28 at 3.

ActioNet's Past Performance

ActioNet argues that DOE should have assigned its quotation a higher overall adjectival rating under the past performance factor. The firm primarily argues that the agency unreasonably evaluated two of its referenced contracts as not relevant, and unreasonably evaluated the quality of its performance on all referenced contracts. The protester also argues that the agency unequally evaluated its past performance relative to Accenture. Finally, ActioNet argues that DOE should have considered alternate sources of past performance information in evaluating its quotation. We find that none of ActioNet's protest grounds provide us with a basis to sustain the protest.

Our Office will examine an agency's evaluation of a vendor's past performance only to ensure that it was reasonable and consistent with stated evaluation criteria and applicable statutes and regulations. Language Select LLP, dba United Language Group, B-415097, B-415097.2, Nov. 14, 2017, 2017 CPD ¶ 359 at 11. The relative merit and relevance of a vendor's past performance is primarily within the agency's discretion. Id.

Vendors were required to identify six examples of recent and relevant past performance involving work similar to that described in the RFQ's master scope of work (MSOW). RFQ at 684. Two performance examples were required to include moving an organization from an onsite IT environment to a commercially available cloud-based environment. Id. For the referenced contracts to be considered relevant, the RFQ stated that, with respect to size, each example must meet or exceed a minimum threshold of 13,000 users for a single IT service management deployment. Id. at 700.

The third performance example was required to include providing cabinet-level support to a chief information officer in the stand-up and/or operation of an agency-level or Department-level security operations center. Id. The fourth example was required to include providing cabinet-level support to the chief information officer of a federal agency in cyber operations and information security. Id. The final two examples were required to describe any additional experience similar to the duties outlined in the MSOW. Id. at 685. The RFQ also stated that DOE might contact references to verify the accuracy of the submitted information and might consider relevant data from other sources. Id. at 700.

When assessing past performance, the solicitation anticipated considering the relevancy and quality of performance. RFQ at 699-700. An example would be

considered relevant when it was of comparable size, scope, magnitude of effort, and complexity to the MSOW. Id.

ActioNet identified five examples of past performance describing its experiences providing IT services as the incumbent contractor, and one example describing its subcontractor's experience providing IT services to another agency. DOE assigned a satisfactory rating to ActioNet's past performance. The agency found that ActioNet's past performance examples did not demonstrate specific experience performing IT modernization and cloud migration on contracts of similar size or scope. AR, Tab B.1, Technical Evaluation Committee (TEC) Past Performance Evaluation Report, at 49. The agency further explained that, while ActioNet's past performance questionnaires (PPQs) and performance reports contained mostly favorable ratings, telephone interviewees had characterized ActioNet's performance on these contracts as that of [DELETED]. Id. at 50-51.

ActioNet asserts that DOE unreasonably evaluated two of its referenced contracts as not relevant. The firm broadly asserts that its performance on task orders pursuant to its incumbent indefinite-delivery, indefinite-quantity contract are highly relevant to the instant acquisition. Protester's Comments at 5-15. It specifically argues that two of the task order contracts submitted as examples of past performance demonstrate experience transitioning more than 13,000 users to a cloud-based platform in a single deployment. Id. We disagree; the record shows the agency reasonably found that neither of the examples of past performance demonstrates the requisite experience.

The first referenced contract describes how ActioNet conducted three deployments of cloud applications for the agency. AR, Tab C.1, ActioNet Quotation--Past Performance at 7. ActioNet's quotation describes how it transitioned approximately [DELETED] users and approximately [DELETED] generic/shared mailboxes to Microsoft Office 365, transferred over [DELETED] users to Microsoft SharePoint Online, and transferred [DELETED] users to Microsoft OneDrive for Business. Id. at 8-9. Consistent with the evaluation, this referenced contract is not similar in terms of size or scope because none of the deployments involved more than 13,000 users. See COS/MOL at 27. Although the Microsoft Office 365 deployment involved a total of [DELETED] migrations (i.e., [DELETED] users and [DELETED] generic/shared mailboxes), the quotation does not articulate that figure, but rather represents that it migrated only [DELETED] users. See id. While the protester asserts that the agency should have recognized that each of the mailboxes also has a distinct user and that the mailbox migration therefore increased the total number of users migrated, we consider it a vendor's responsibility to submit a well-written quotation and therefore ActioNet should have made it clear that the mailbox migrations increased the total number of users migrated for the Office 365 deployment. See Technatomy Corp., B-411583, Sept. 4, 2015, 2015 CPD ¶ 282 at 6. Thus, the agency had a reasonable basis to find that ActioNet's first reference contract was not relevant.

The second referenced contract involves the transition of DOE's website from a multiplatform system to a commercially available, Federal Risk and Authorization

Management Program authorized cloud-based IT environment. AR, Tab C.1, ActioNet Quotation--Past Performance, at 9-10. The firm's quotation explains that the post-migration website averages [DELETED] user sessions per month, [DELETED] monthly page views, and [DELETED] monthly downloads. Id. at 13. Thus, the record supports the agency's evaluation because the firm's quotation does not demonstrate that the firm transitioned 13,000 users in a single deployment. ActioNet's description does not explain in any detail how it transitioned any single user from a legacy platform to the current cloud-based platform; rather, as the agency concluded, it describes how it transitioned website content and data allowing for increased web traffic. See COS/MOL at 27. Accordingly, we deny this protest allegation.

Moreover, we agree with DOE that the second referenced contract does not demonstrate that ActioNet transitioned the same type of "users" as required by the solicitation. See COS/MOL at 28. The RFQ provides that the agency's primary objective for the instant acquisition was to "migrate [its] customers from a legacy IT environment to a future state environment." RFQ at 618. The MSOW provided that the selected contractor would be expected to "provide IT services within a managed seat service environment." Id. at 383. To this end, the selected contractor would be required to provide seat service end user computing services, provide remote access for all seat service end users, provide user support, ensure that end-users have access to the agency's network, provide credential and access management services, and develop and implement a single sign-on service-user authentication for end users. Id. at 383-84, 391. In this way, the solicitation contemplated the provision of seat services to end users (e.g., agency personnel); therefore, for an example of past performance to be considered relevant, the example must demonstrate migration of end users. As ActioNet's referenced contract [DELETED] and did not demonstrate providing migration for end users, we find that the agency had a reasonable basis for evaluating the referenced contract as not relevant.

ActioNet also asserts that the agency unequally evaluated its quotation because it did not require the awardee to demonstrate experience transitioning end users. In conducting procurements, agencies may not engage in unfair or disparate treatment of competing vendors. Red River Computer Co., Inc., B-414183.4 et al., June 2, 2017, 2017 CPD ¶ 157 at 6. The record belies ActioNet's allegation; the evaluation documents show that the agency determined that the awardee's referenced contracts were relevant based on the number of end users migrated. AR, Tab B.1, TEC Past Performance Evaluation Report, at 32-33, 38.

The protester also asserts that the agency unreasonably evaluated the quality of its referenced past performance. We find no merit to this aspect of the protest. The record shows that DOE considered the protester's contractor performance assessment reports (CPARs), the PPQs, and the results of reference interviews. While the CPARs were mostly favorable, the PPQs contained a mixture of satisfactory to outstanding ratings. AR, Tab C.1.2, ActioNet Past Performance Records, at 7-33, 8-105. Further, the reference interviews described ActioNet's performance as [DELETED]. Id.

at 39, 41, 43, 44.¹ Given this mixture of ratings, we do not find the agency's conclusion that ActioNet had favorable and unfavorable reviews to be unreasonable.

ActioNet also argues that DOE should have considered other sources of information and disregarded the interview comments. In ActioNet's view, DOE should have considered information and reports produced pursuant to the annual CPARs process, including survey data from technical monitors, in-process review reports, and service level agreement reports. Supp. Protest at 12-15. In ActioNet's view, the consideration of the reference interviews was unreasonable. Id. at 14. We disagree.

The RFQ specifically stated that the agency would "evaluate all past performance information submitted by the [vendor's] references and may contact the references provided by the [vendor]. The Government may contact references other than those identified by the [vendor], which could be used in evaluation of the [vendor's] past performance examples." RFQ at 702. ActioNet did not include in its quotation the survey data and other information and reports it argues should have been considered. In fact, ActioNet has not alleged that the agency personnel conducting the procurement were specifically aware of that information; the agency therefore was under no obligation to review that information.² See The MIL Corp., B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 12. Further, the protester ignores the fact that DOE has already essentially considered the substance of that information because that information was used to produce the CPARs. Finally, we view the agency's consideration of the interview results to be unobjectionable because the solicitation's terms allowed for that consideration and because agencies are generally not precluded from considering information obtained from other sources when relevant to the past performance evaluation. Federal Acquisition Regulation § 15.305(a)(2); see also Paragon Sys., Inc., B-299548.2, Sept. 10, 2007, 2007 CPD ¶ 178 at 8.

ActioNet's Management Approach

The protester argues that the agency unreasonably evaluated its quotation under the management approach factor. The firm chiefly argues that DOE unreasonably assigned

¹ DOE conducted four reference interviews. Three were conducted with ActioNet's identified technical references under its incumbent BPA, and the fourth was conducted with the program manager for ActioNet's first example of past performance.

² In its comments, the protester introduces the new allegation that the surveys and reports used to produce the CPARs are available on DOE's internal data management system and therefore the agency had access to the information. Protester's Comments at 34. This allegation critically fails to demonstrate that the agency employees conducting the procurement were aware of the information. Moreover, the allegation is untimely because it was developed in piecemeal fashion and the protester has not demonstrated that the new allegation is predicated on information not previously known. University of Maryland, B-416682, Oct. 24, 2018, 2018 CPD ¶ 366 at 6.

five weaknesses to its quotation. We deny these protest allegations because we find that the agency had a reasonable basis to assign the weaknesses.

In describing their proposed management approach, vendors were to explain how they would perform the cybersecurity and IT operations functions. RFQ at 687. Vendors were to submit their description in two parts. Id. The first part required vendors to provide a management narrative that would be evaluated in six areas: customer-centric solutions, IT modernization framework, team structure/capabilities, government/contractor interface, BPA order governance, and work integration. Id. at 702-03. The second part required vendors to demonstrate that their key personnel satisfied the position requirements outlined in the solicitation. Id. at 703.

The agency assigned ActioNet's quotation a satisfactory rating here, with thirteen strengths and five weaknesses. AR, Tab B.2, TEC Management and Technical Evaluation Report, at 28. DOE assigned two weaknesses to ActioNet's management narrative, finding problems associated with the firm's approach to customer-centric solutions and work integration. Id. at 32. The agency assigned three weaknesses for ActioNet's key personnel, finding that the firm's quotation lacked details demonstrating that its key personnel satisfied the minimum years of relevant experience for each position. Id. at 32-33.

With regard to the firm's approach to customer-centric solutions, the agency assigned a weakness because it did not consider ActioNet's quotation as offering proactive solutions to customer complaints. AR, Tab B.2, TEC Management and Technical Evaluation Report, at 32. The protester argues that this weakness was unreasonably assigned because the agency applied an unstated evaluation criterion as the solicitation did not require vendors to propose proactive solutions. Protester's Comments at 47-48. ActioNet further argues that, even if the solicitation required proactive solutions, its quotation included such information. Id. at 49. We disagree.

In reviewing whether an agency applied unstated evaluation criteria, our decisions explain that an agency is required to evaluate quotations based solely on the factors identified in the solicitation. IBM Global Business Serv.--U.S. Federal, B-409029, B-409029.2, Jan. 27, 2014, 2014 CPD ¶ 43 at 4. While an agency may apply evaluation considerations that are not expressly outlined in the solicitation if those considerations are reasonable and logically encompassed within the stated evaluation criteria, there must be a clear nexus between the stated and unstated criteria. Id.

The RFQ advised that vendors' approaches to customer-centric solutions would be evaluated based on how well they fulfill the objectives outlined under Section C-2.3 of the MSOW. RFQ at 702. Section C-2.3 provides that the selected contractor must meet multiple objectives, including "help set customer expectations, and shall respond to the needs of customers with agile, flexible, IT service delivery, meeting or exceeding established standards of timeliness and responsiveness." RFQ at 383. Based on the record, we agree with DOE that the solicitation reasonably encompasses a need to provide proactive solutions because the selected contractor cannot "help set customer

expectations” without, at least, anticipating potential problems and providing customers with sufficient notice or possible solutions. COS/MOL at 47-48. Further, as highlighted by the agency, we agree that the entire provision reasonably can be interpreted as referring to a situation where the selected contractor proactively discusses service goals with the customers and then responds accordingly. Id. Thus, we deny this protest allegation.

To the extent the protester asserts that the evaluation was nevertheless unreasonable because its quotation in fact contained proactive solutions, we disagree. Although the protester highlights charts and a provision from its quotation, these parts of the protester’s quotation do not unequivocally identify proactive solutions. Protest at 34-35. The charts appear to refer to a customer-centric solution that is initiated by a request for a new service, product, or process, and therefore does not appear to be proactive. AR, Tab C.2, ActioNet Quotation--Management Approach, at 6 ([DELETED]). The identified provision also does not appear to reference a proactive approach because it references one of the firm’s [DELETED] as opposed to an identifiable strategy; simply put, the identified provision references a general aspiration rather than an actual, implementable proactive solution for customer complaints. Id. at 8. Accordingly, we do not find that the agency unreasonably assigned this weakness.³

The agency also assigned a weakness to the firm’s work integration approach, concluding that ActioNet’s quotation did not describe how it would resolve communication challenges between it and agency personnel or describe its plan for managing risks and impacts across projects. AR, Tab B.2, TEC Management and Technical Evaluation Report, at 32. The protester argues that this weakness was unreasonably assigned because the solicitation did not contemplate that the agency would assess work integration approaches for how well they resolve challenges between the firm and agency personnel. Protest at 29.

On this record, the agency’s reasons for finding ActioNet’s work integration approach lacking were reasonably and logically encompassed by the solicitation’s evaluation criteria. See COS/MOL at 51. The solicitation advised that the agency would evaluate proposed work integration approaches based on how well they produce a seamless interface across all orders issued against the BPA and between the agency and other IT

³ ActioNet asserts that the agency unreasonably assigned inconsistent strengths and weaknesses. In particular, the protester highlights this weakness (i.e., the firm’s failure to provide proactive solutions) as inconsistent with an assigned strength. Protester’s Comments at 64. The alleged inconsistent strength was assigned because the agency determined that the protester’s quotation included “clearly articulated interfaces for customer engagement at executive and technical levels.” AR, Tab B.2, TEC Management and Technical Evaluation Report, at 29. We do not read the assigned strength as inconsistent because the strength refers to the methods in which the agency engages with agency personnel; while the weakness was assigned because the firm’s quotation lacks any plan to proactively provide customer solutions.

support services contractors. RFQ at 703. In our view, the “producing a seamless interface” between orders issued to the selected contractor and other contractors reasonably requires the agency to be aware of current or potential overlap between orders and future orders. Thus, consistent with the agency’s position, the solicitation reasonably encompassed a requirement that vendors describe how they would communicate current or potential future challenges to the agency and how they would address resolution of such challenges in the event vendors and the agency disagree over how to proceed. Accordingly, because ActioNet did not describe how it would incorporate the agency when resolving challenges between it and other contractors, we do not find the agency’s evaluation to be unreasonable.

In any event, the evaluation record shows that the agency also assigned this weakness because ActioNet’s approach was project specific and did not adequately convey its plan to manage risks and impacts across projects and at the strategic planning level. AR, Tab B.2, TEC Management and Technical Evaluation Report, at 32. ActioNet did not challenge this aspect of the agency’s rationale in either its protest or supplemental protest. See Protest at 29; Protester’s Comments at 50-51. Thus, even if the agency applied unstated evaluation criteria, we would not find the agency’s evaluation to be unreasonable because the weakness was also predicated on ActioNet’s failure to describe how its work integration approach functions at the strategic or planning level.

The protester also challenges the three weaknesses assigned to its key personnel. The RFQ required vendors to propose a program manager, a performance manager, and a financial manager. RFQ at 688. Key personnel would be evaluated for demonstrated leadership and experience, as well as on whether they satisfied the position qualifications. Id. at 703. For the program manager, the proposed person must have at least a bachelor’s degree in a scientific or technical discipline, a Project Management Professional (PMP) certification, and 15 years of relevant experience. Id. at 440. The performance manager must have a bachelor’s degree, a PMP certification, and at least 10 years of relevant experience. Id. The financial manager must have a bachelor’s degree and 10 years of relevant experience. Id. at 441.

Again, the agency assigned the weaknesses because it determined that none of the firm’s proposed key personnel satisfied the years of experience component of the position qualifications. The agency’s evaluation found that the firm’s quotation lacked sufficient details to demonstrate that the proposed personnel’s prior positions required similar duties as those duties outlined in the solicitation. AR, Tab B.2, TEC Management and Evaluation Report, at 32-33.

We find nothing objectionable about the evaluation. With regard to the program manager, the solicitation stated that he or she would be responsible for managing programmatic risks and dependencies, overseeing contractor-to-contractor work integration, and ensuring proper integration amongst all contractor-provided personnel and delivered services. RFQ at 440. Although the RFQ required vendors to demonstrate that their proposed program manager had 15 years of experience performing these types of duties, the firm’s quotation only lists the senior-level positions

that its proposed program manager has held for the last 25 years; it does not provide descriptions for any of those previously held positions, such that the agency would be able to determine that he performed similar duties in each of his previous positions. AR, Tab C.2, ActioNet Quotation--Management Approach, at 51-55.

Similarly, the firm's quotation lists previously held positions for both its performance and financial managers, but does not provide any details showing that either individual performed similar duties in any of their previous positions. Id. at 64, 73. Finally, while the firm included a chart in its management narrative indicating that its proposed personnel had sufficient years of experience and explaining that its proposed personnel serve as the managers for the incumbent contract, this information nevertheless still does not demonstrate that any of the managers have performed the requisite duties for the requisite number of years. Id. at 41. Further, while the listed position titles may indicate that all of the proposed managers performed similar duties in their previous positions, the agency was not required to make that sort of assumption but rather it was ActioNet's responsibility to affirmatively demonstrate that its personnel satisfied the requirements. See Technatomy Corp., *supra*. Accordingly, we find the agency's assignment of three weaknesses (i.e., one for each of the proposed managers) was reasonable because the firm's quotation lacked critical information demonstrating that its personnel satisfied the minimum experience requirements.⁴

ActioNet's Technical Approach

ActioNet alleges that the agency unreasonably evaluated its quotation under the technical approach factor when it assigned three weaknesses to its quotation.

Under the technical approach factor, vendors were required to discuss their technical approaches for the initial BPA orders and small business participation. RFQ at 688-89. The agency assigned three weaknesses for the firm's technical approaches to the two initial BPA orders. AR, Tab B.2, TEC Management and Technical Evaluation Report, at 35.

The first initial BPA order was for IT modernization strategy services (IM-60 order). The solicitation advised that each vendor's technical approach to the IM-60 order would be

⁴ Insofar as the protester asserts that DOE's evaluation was unreasonable because it was predicated on the incorrect years of experience, we do not find that this error made the evaluation unreasonable. The record shows that the agency determined that the firm's proposed program manager lacked 20 years of relevant experience, the proposed performance manager lacked 20 years of relevant experience, and the proposed financial manager lacked 15 years of relevant experience. AR, Tab B.2, TEC Management and Technical Evaluation Report at 32. Nevertheless, the evaluation documents show that the agency could not determine whether the proposed managers had any relevant experience, as opposed to a specific value. Thus, the agency's error had no effect on its assignment of the three weaknesses.

evaluated based on whether it demonstrated a clear understanding of the agency's requirement and whether the plan proposed effective solutions for accomplishing the required work. RFQ at 704. The solicitation further advised that the agency would evaluate each vendor's risk management/mitigation plan. Id.

As part of the IM-60 order, the selected contractor would be required to provide an assessment of the agency's current IT environment. RFQ at 483. The assessment would include a review of the various aspects associated with the acquisition, distribution, and management of IT resources, as well as a review of the staffing levels and positions that are required for supporting an organization's IT environment. Id. As part of the assessment, the selected contractor would seek to understand the specific needs of the agency and provide recommendations that will help the agency achieve its needs. Id. In terms of deliverables, the selected contractor was required to produce an executive summary overview of the organization, report on how the agency's IT environment is currently managed, conduct a survey to determine any IT-related issues that the user community may have, conduct a systematic review of the networking infrastructure, conduct a survey of the current telephone usage and evaluate all telephone services, evaluate the directory services available in the network environment, assess the back-end server infrastructure, assess the current workstation environment, assess the current cyber-threat capabilities, and identify specialized and unique software applications. Id. at 483-84. For the IM-60 order, the agency also required the selected contractor to provide an analysis of the current IT modernization projects. Id. at 484-85. This analysis would require the selected contractor to examine nine current and planned IT projects. Id. at 485-86. The culmination of the assessment and the analysis would result in executable plans to transition many of the agency's IT services to a cloud-based environment. Id. at 486.

The agency assigned a weakness to ActioNet's quotation because it concluded that the firm's proposed timeframe [DELETED] for producing the current IT environment assessment was so short that it reflected a poor technical understanding of the agency's requirement. AR, Tab B.2, TEC Management and Evaluation Report, at 35. ActioNet argues that the agency's conclusion was unreasonable because its quotation provided that it would produce the assessment over a [DELETED] period. Protester's Comments at 57. Contrary to the protester's argument, however, we do not find the evaluation unreasonable because, as DOE points out, the protester's quotation stated [DELETED]. COS/MOL at 73 (citing AR, Tab C.3, ActioNet Quotation--Technical Approach, at 8).

Although the firm represented that it would produce only a [DELETED] assessment within [DELETED], we agree with DOE that producing a [DELETED] would necessarily require the firm to have completed the substance of its data gathering and evaluating functions within the [DELETED] period. Id. Further, the firm's timeframe shows that it proposed to provide the finalized assessment within the [DELETED] and then finalize and deliver the executable plans during the [DELETED] of contract performance; this indicates that it did not intend to perform much in the way of reviewing or surveying the agency's current IT environment following the initial [DELETED] period. AR, Tab C.3,

ActioNet Quotation--Technical Approach, at 9. Accordingly, we do not find the agency's evaluation to be objectionable because the firm's quotation reasonably can be interpreted as proposing to perform the substance of its current IT environment assessment within a very short period.

The agency assigned another weakness to the firm's technical approach to the IM-60 order, finding that the proposed risk management plan failed to explain how the firm would manage or mitigate the identified risks. Indeed, DOE's specific rationale was that "the risk management plan described in the response includes risks, but does not define how the [vendor] proposes management or mitigation of those risks as required by the RFQ." AR, Tab B.2, TEC Management and Technical Evaluation Report, at 35 (emphasis added). ActioNet argues that this weakness was unreasonably assigned because its quotation provided risk management strategies. Protest at 40. The agency argues that, while the firm's quotation discusses risk management strategies for "high-level" risks, it does not describe any risk management strategies for risks with the specific requirements of the IM-60 order. COS/MOL at 78. In our view, the agency's evaluation is inconsistent with the firm's quotation because the quotation plainly describes its risk management strategies for the "high-level" risks that it identified. Furthermore, the evaluation document does not support the agency's post hoc argument that it assigned the weakness based on the firm's failure to provide risk management strategies for risks specifically associated with the IM-60 order; the document does not reference the firm's failure to detail its plan for mitigating project specific risks. See Celta Servs., Inc., B-411835, B-411835.2, Nov. 2, 2015, 2015 CPD ¶ 362 at 7. Accordingly, we find that the agency unreasonably assigned this weakness to the firm's quotation.

The second initial BPA order was for cybersecurity and program management support services (IM-30 order). The solicitation advised that each vendor's technical approach to the IM-30 order would be evaluated based on whether the approach offers realistic solutions to meet the agency's requirements and demonstrates a clear technical understanding of the federal legislative landscape. RFQ at 704.

Under the IM-30 order, the selected contractor would be expected to strategically plan the agency's cybersecurity policies to comply with federal requirements and initiatives. RFQ at 218. In support of that objective, the selected contractor would be expected to monitor the federal legislative landscape, strategically analyze federal legislative requirements, assist DOE in identifying applicable federal requirements, provide policy recommendations, evaluate applicability of emerging cybersecurity solutions, translate strategic initiatives into functional capabilities, and resolve implementation efforts. Id. at 218-19. The contractor would also be expected to provide program management services, data analytics and trend analysis, and report drafting. Id. at 219-222.

The agency assigned one weakness to the firm's technical approach to the IM-30 order, concluding that its staffing plan was insufficient. AR, Tab B.2, TEC Management and Technical Evaluation Report, at 35. The agency noted that the firm's plan to employ [DELETED] full-time equivalent (FTE) employees for this effort was inconsistent in

“quantity and role” with the agency’s expectations. Id. In other words, the agency concluded that the firm’s staffing plan was unrealistic and would not be able to accomplish the proposed technical approach. Id. As an example, the agency noted that the firm’s staffing plan did not assign any of its [DELETED] FTEs to a role with the agency’s Strategic Program Office. Id.

ActioNet argues that this weakness was unreasonable because it shows that the agency applied an unstated criterion (i.e., a staffing floor) when evaluating the firm’s technical approach. Protester’s Comments at 61. We disagree. The record shows that the agency considered the firm’s proposed staffing plan, and concluded that the particular number of employees combined with their assigned roles would not be able to perform all of the labor tasks set forth in the solicitation. Consistent with the agency’s position, we find that the evaluation does not demonstrate the application of a mechanical staffing floor, but rather demonstrates that the agency reviewed the firm’s approach to determine whether it was realistic and simply concluded that it was not. See COS/MOL at 80. As the evaluation criteria specifically provided that the agency would review each vendor’s technical approach to determine whether it provided a realistic solution, we do not find the agency’s evaluation to be objectionable.

Based on our total review of the agency’s evaluation under this factor, we do not find that the agency’s unreasonable assignment of the second weakness caused competitive prejudice to the protester. Competitive prejudice is an essential element of a viable protest, and we will sustain a protest only where the protester demonstrates that, but for the agency’s improper actions, it would have had a substantial chance of receiving the award. Oak Grove Tech., LLC, B-415772, B-415772.2, Nov. 15, 2018, 2018 CPD ¶ 127 at 4. We do not find that the protester suffered competitive prejudice because removal of the second weakness would not necessarily improve the firm’s competitive position. Cf. HydroGeoLogic, Inc., B-311263, B-311263.2, May 27, 2008, 2008 CPD ¶ 218 at 8 (protester did not suffer competitive prejudice because removal of a notable weakness would not improve the firm’s competitive position); EMTA Insaat Taahhut Ve Ticaret, A.S., B-416391, B-416391.4, Aug. 13, 2018, 2018 CPD ¶ 280 at 7, n.4 (protester did not suffer prejudice because sustaining the allegation would not improve the firm’s competitive position).

Significantly, the record shows that the agency considered the firm’s inadequate timeframe and staffing plan to constitute significant factors distinguishing ActioNet’s and Accenture’s quotation. The EBAD shows that the agency considered ActioNet’s unrealistically low pricing to constitute a significant discriminator, which is “buttressed in part by weaknesses identified by the TEC Report in ActioNet’s technical approach to the IM-60 and IM-30 orders under Factor 3.” AR, Tab B.4, EBAD, at 14. The referenced weaknesses are those that we have found unobjectionable because the firm’s inadequate timeframe and limited staffing plan directly drive the firm’s bottom-line pricing for these orders, whereas the firm’s approach to managing risks does not. Thus, we do not find that removal of the second assigned weakness would have markedly improved the firm’s competitive position relative to Accenture because the agency did not rely on that weakness when distinguishing the quotations.

ActioNet's Price

ActioNet argues that DOE unreasonably evaluated its price as unrealistically low because the solicitation did not state that the agency would conduct a price realism evaluation. Alternatively, the protester argues that, even if the solicitation provided for a price realism evaluation, the agency unreasonably applied an unstated evaluation criterion. Based on our review of the record, we do not find that the protest allegation provides us with a basis to sustain the protest.

As noted above, vendors were instructed to submit their pricing information in three parts: labor rates, initial BPA order pricing, and proposed load on the ratio of other direct costs to direct materials purchases. RFQ at 691-92. The solicitation advised that pricing information would not be assigned an adjectival rating, but would be evaluated for compliance with instructions, completeness, and reasonableness. Id. at 705. Importantly, the solicitation also advised the following:

The contractor's quote will be evaluated to ensure price reasonableness and, as part of the evaluation, the Government will assess the potential price risk (too high or too low) of quoted prices/rates. Price risk refers to any aspect of the Contractor's quote that could have negative price consequences to the Government. Any quotes that are unreasonably low in price may be deemed reflective of a lack of technical understanding or indicative of failure to comprehend the complexity and risk of contract requirements, and may be grounds for rejection of the quoted price/rate.

Id. at 705.

When evaluating the firm's initial BPA order pricing, the agency determined that its proposed prices were unrealistically low. AR, Tab B.6, TEC Price Evaluation Report, at 4. Specifically, the agency determined that the proposed hours for both of the BPA orders was inconsistent with the requirements as provided for in the solicitation. Id.

ActioNet argues that the agency's evaluation was unreasonable because the solicitation did not provide for a price realism evaluation. The protester argues that the solicitation contains more specific criteria with regard to how the agency would evaluate initial BPA order pricing. Protester's Comments at 69-70. The specific language cited is as follows:

The initial orders evaluation will take into consideration the quote's staffing/labor mix and hours proposed for the initial BPA Orders to determine the [vendor's] understanding of the scope of work required under these orders, and will take into consideration whether the total price for these orders is reasonable.

RFQ at 707. In response, the agency asserts that the solicitation provided for a price realism evaluation. COS/MOL at 95-96.

Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by first assessing whether each posited interpretation is reasonable. Anders Constr., Inc., B-414261, Apr. 11, 2017, 2017 CPD ¶ 121 at 3. An interpretation is reasonable when it is consistent with the solicitation when read as a whole and gives effect to each of its provisions. Id. Furthermore, we defer to the plain meaning of the solicitation and its provisions. Id.

In our view, the protester's interpretation is unreasonable because it narrowly construes the cited provision and would not give full effect to all of the evaluation criteria. Further, we view the cited provision as plainly referring to DOE's plan to conduct both a price realism evaluation (i.e., evaluate the vendor's understanding of the requirements given its labor and hours mix) and conduct a price reasonableness evaluation. In this way, the cited provision is consistent and harmonious with the more general price evaluation criteria. Thus, DOE's interpretation is reasonable because it is consistent with the solicitation as a whole and gives full effect to the plain meaning of both provisions. See Anders Constr., Inc., supra. Accordingly, we deny this protest allegation.

To the extent the protester argues that the agency applied an unstated evaluation criterion (i.e., an hours estimate) when determining that its proposed initial BPA order pricing was unrealistic, we deny that allegation. See Protester's Comments at 72-74. Our decisions explain that we review an agency's price realism evaluation only to determine whether it was reasonable and consistent with the solicitation requirements. Longevity Consulting, LLC, B-415596.2, July 17, 2018, 2018 CPD ¶ 373 at 5. The depth of an agency's price realism analysis is a matter within the sound exercise of the agency's discretion. Id.

In our view, the protester's argument amounts to an allegation that because the agency considered its estimate too low and considered the remaining vendor's estimates consistent with the requirements, the agency must have applied a mechanical evaluation using a predetermined acceptable number of hours. We find that the record contains no evidence that the agency employed any predetermined number; rather, the record shows that the agency carefully reviewed ActioNet's proposed labor and hours and concluded that the proposed hours estimates were simply too low to perform the agency's requirement. AR, Tab B.3, Contracting Officer's Price Reasonableness Determination, at 5-6. While the protester may assert that its initial BPA order pricing was realistic, it has failed to demonstrate that the agency's judgments were unreasonable or undocumented. Accordingly, ActioNet's protest challenging the agency's evaluation of its price is without merit.⁵

⁵ The protester argues that the agency failed to evaluate whether proposed prices were fair and reasonable. Specifically, with respect to each vendor's proposed load on other direct costs and direct materials purchases, ActioNet asserts that the agency failed to
(continued...)

Other Issues

ActioNet also challenges the agency's evaluation of Accenture's quotation. However, we conclude that ActioNet is not an interested party to maintain this aspect of its protest. Under our Bid Protest Regulations, a protester must be an interested party to pursue a protest before our Office. 4 C.F.R. § 21.1. An interested party is an actual or prospective vendor whose direct economic interest would be affected by award of a contract or failure to award a contract. 4 C.F.R. § 21.0(a)(1). A protester is not an interested party if it would not be next in line for award if its protest were sustained. Vertical Jobs, Inc., B-415891.2, B-415891.4, Apr. 19, 2018, 2018 CPD ¶ 147 at 8.

Here, even if the protester were correct as to the agency's evaluation of Accenture's quotation, the record shows that there is an intervening vendor with higher technical ratings and more advantageous pricing. AR, Tab B.4, EBAD, at 9, 14. ActioNet has not challenged the agency's evaluation of the intervening vendor. Thus, given the intervening vendor's better technical and price ratings, we find that the intervening vendor would be in line for award if ActioNet's challenge to the agency's evaluation of Accenture's quotation were correct. We therefore dismiss this aspect of the protest.

Finally, we dismiss the protester's allegation that the agency unreasonably made its source selection decision because it relied on flawed technical and price evaluations. Protester's Comments at 79-80. This allegation is derivative of the challenges to the agency's evaluation. Thus, we dismiss this allegation because derivative allegations do not establish independent bases of protest. Technology & Telecomms. Consultants, Inc., B-415029, Oct. 16, 2017, 2017 CPD ¶ 320 at 6.

The protest is denied.

Thomas H. Armstrong
General Counsel

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meaningfully consider the offered load rates because the agency compared the differences between the proposed percentage rates rather than the differences between estimated prices (i.e., multiplying the proposed percentages by the estimated amount of other direct costs and direct materials purchases). Protester's Comments at 77-78. We do not find the protester's argument persuasive because the estimated prices are functions of a constant (i.e., the estimated costs) and the proposed percentages; thus, the only variables to compare are the proposed percentages. Further, the record shows that the agency compared the proposed percentages and determined that all were within a healthy range in order to find that each percentage was fair and reasonable. AR, Tab B.3, Contracting Officer's Price Reasonableness Determination, at 8. Accordingly, this allegation does not provide us with a basis to sustain the protest.