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Decision

Matter of: Davis Defense Group, Inc.

File: B-417470

Date: July 11, 2019

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DIGEST

Protest that agency erred in concluding proposal was technically unacceptable due to inadequate proposed staffing is denied where the agency's evaluation was reasonable and consistent with the solicitation, and the protester's proposal contained numerous inconsistencies concerning the protester's staffing approach.

DECISION

Davis Defense Group, Inc., (Davis) a small business of Stafford, Virginia, challenges the issuance of a task order to MLT Systems, LLC, of Stafford, Virginia, under request for proposals (RFP) No. M67854-18-R-3005 issued under the Navy's Seaport multiple award indefinite-award, indefinite-quantity (IDIQ) contract by the United States Marine Corps for business, acquisition, logistics, engineering, and test-related support services. The protester argues that the agency erred in finding its proposal to be technically unacceptable.

We deny the protest.

BACKGROUND

On July 18, 2018, the agency issued the RFP as a small business set-aside, anticipating the issuance of a single task order. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 3. The RFP provided that proposals would be evaluated on the basis of three factors: (1) technical; (2) past performance; and

(3) price. Agency Report (AR), Tab 9, Conformed RFP, at 67-69. Additionally, the technical factor was composed of two elements: (1) technical approach and understanding; and (2) management approach. Id. Further, the technical approach and understanding element was divided into eight sub-elements, which related to specific performance work statement (PWS) paragraphs: (1) program management support; (2) acquisition development; (3) business and financial management; (4) logistics; (5) engineering; (6) test and evaluation; (7) assault amphibious vehicle (AAV) specific; and (8) amphibious combat vehicle (ACV) specific. Id. at 63-64.

The RFP also indicated that the agency would assess one of five adjectival ratings for each offeror's technical proposal: (1) outstanding; (2) good; (3) acceptable; (4) marginal; or (5) unacceptable. RFP at 69. The RFP provided that the task order would be issued on the basis of a best-value tradeoff, but those proposals with either a marginal or an unacceptable technical rating would not be eligible for award or included in the tradeoff. Id. at 67.

Relevant to this protest, Davis is the incumbent contractor providing business, acquisition, logistics, engineering, and test-related support services to the requiring activity. COS/MOL at 2. The RFP included a detailed PWS that outlined a set of base contract requirements as well as six option requirements. RFP at 7-46. The base portion of the current PWS is similar, but not identical, to the scope of the incumbent task order effort, with the option requirements, as a general matter, representing additional work beyond the scope of the incumbent task order. COS/MOL at 3.

In April 2018, the agency prepared an independent government cost estimate (IGCE) for this effort, based on: the level of support then being provided by Davis under the incumbent effort; the agency's estimates of additional work that would result from changes to the base requirements; and, the new work included in the option requirements. Id. At that time, the agency found that Davis was performing the incumbent effort with approximately 59 full-time equivalents (FTEs), and the agency concluded the additional tasks could reasonably require an additional 34 FTEs, for a total of approximately 93 FTEs. Id.

The agency received four timely proposals in response to the RFP, including those of Davis and MLT. Id. Davis proposed approximately 50 FTEs for the base effort and an additional 16 FTEs for the option requirements, for a total of approximately 66 FTEs. COS/MOL at 5-6. The technical evaluation team (TET) assigned Davis's technical approach five significant weaknesses and five weaknesses, which collectively amounted to a deficiency. Id. at 14. The assigned weaknesses universally related to concerns about Davis's proposed staffing for various PWS elements. See AR, Tab 22, TET Consensus Report at 29-45. For example, the agency noted that large numbers of tasks were assigned to single or fractional FTEs; some employees had time assigned in percentages that added up to more than 100% of that employee's time; and, some tasks could not, in the agency's view, be performed with the number of staff assigned. Id. As a result, Davis's technical proposal was evaluated as unacceptable, and Davis was excluded from consideration for award. COS/MOL at 3.

On April 1, 2019, the agency issued a task order to MLT at a price of \$44,822,205.¹ Protest at 5. Also on April 1, the agency provided Davis with an unsuccessful offeror notice, and, later that day, a debriefing. COS/MOL at 4. On April 3, the Davis sent additional questions to the agency, which the agency answered on April 5, closing the debriefing. Id. This protest followed.

DISCUSSION

The protester contends that the agency erred in evaluating its proposal in several respects. Primarily, the protester argues that every weakness resulted from the agency either applying unstated evaluation criteria, misreading elements of Davis's proposal, or unreasonably relying on the IGCE. See Protest at 10-18. Additionally, the protester argues that the agency ignored numerous meritorious areas of its proposal that deserved to be assigned strengths. See, e.g., Protest at 9-10. Finally, Davis argues that the agency erred in making its best-value tradeoff decision. Id. at 22-23. We address the protester's arguments in turn.²

¹ As the value of the task order here exceeds \$25 million, this procurement is within our jurisdiction to hear protests related to the issuance of task orders under multiple-award IDIQ contracts within the Department of Defense. 10 U.S.C. § 2304c(e)(1)(B).

² In its initial protest, the protester additionally alleged that agency engaged in unequal discussions with the awardee, that the awardee engaged in a "bait and switch" material misrepresentation, and that the awardee was ineligible for award because it lacked a facility security clearance. Protest at 19-22. These allegations were dismissed as speculative because they were alleged upon "information and belief," and were not otherwise supported by adequate explanation or evidence. Notice of Resolution of Agency Request to Dismiss at 1-2. For example, the protester alleged, upon information and belief, that the agency opened discussions with other offerors, but did not open discussions with it. The protester did not provide evidence establishing that discussions or other communications occurred, other than an ambiguous agency response to a multi-part question posed by the protester. See Protest, exh. D at 1-2. On this basis, we concluded that the protest ground was speculative. See, e.g., Siebe Envtl. Controls, B-275999.2, Feb 12, 1997, 97-1 CPD ¶ 70 at 2 (prior protest dismissed "because a mere allegation of improper agency evaluation, made 'on information and belief' without any supporting explanation or documentation, does not satisfy the requirement in our Bid Protest Regulations . . . that a protester provide a detailed statement of legal and factual grounds for protest"). However, even assuming, for the sake of argument, that some communications occurred between the agency and MLT prior to award, the solicitation expressly contemplated such communications. In this case, the RFP provided that, because this procurement was carried out under Federal Acquisition Regulation (FAR) § 16.505, the contracting officer could communicate with offerors without regard to the rules of FAR part 15.3 concerning competitive range determinations and discussions. RFP at 59. Additionally, the RFP specifically contemplated that the contracting officer could identify the offeror most likely to provide
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Weaknesses Related to Logistics

With respect to the logistics technical sub-element, the agency identified two weaknesses. See TET Consensus Report at 31-33. The agency assessed the first weakness because Davis's proposal did not provide adequate detail to demonstrate how employee No. 45³ could complete the requirements of PWS base paragraph 4.5.4, training documentation, and option paragraph 5.3, manpower and personnel documentation. Id. Specifically, the agency concluded that the workload requirements of PWS paragraph 4.5.4 alone would require at least 100% of one FTE, while Davis's proposal assigned a single employee to fully cover both areas. Id. at 32-33. Similarly, the agency assessed the second weakness because Davis's proposal did not provide adequate detail to demonstrate how employee No. 30 would be able to effectively perform the requirements of PWS base paragraph 4.8.5.2, logistics management planning, and option paragraph 5.1.1, government-furnished property. Id. Specifically, Davis's proposal allocated only 25% of employee No. 30's time to option paragraph 5.1.1, while the agency concluded that the option paragraph involved a substantial workload that would only increase over time and would likely require at least one full-time employee to support it if the option were exercised. Id. at 33.

The protester alleges that the agency erred in assigning these two weaknesses because the agency applied unstated evaluation criteria and unreasonably ignored elements of Davis's proposal. Protester's Comments at 5-7. Specifically, the protester contends that the solicitation did not require offerors to explain how staff would divide their time between multiple requirements and did not provide specific minimum FTE amounts for any requirement. Id. Additionally, the protester argues that the agency erred by ignoring that the two individuals proposed had significant experience in performing these requirements, and have done so successfully under the incumbent contract. Id. Furthermore, the protester notes that in the case of employee No. 30, Davis's proposal provided that employee No. 30 would receive additional support from employee No. 13 who would be acting as a "focal point" for all property management functions, but the agency did not acknowledge that employee No. 13 was also assigned. Id. Finally, the protester argues that the agency, in effect, blindly relied on the IGCE and did not adequately consider the protester's innovative approach. Id.

The evaluation of a proposal is a matter within the agency's discretion. IPlus, Inc., B-298020, B-298020.2, June 5, 2006, 2006 CPD ¶ 90 at 7, 13. A protester's disagreement with the agency's judgment in its determination of the relative merit of

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best value and hold negotiations solely with that offeror. Id. Accordingly, even if this protest ground were not speculative, it represented an untimely challenge of the terms of the solicitation, and was appropriately dismissed. See 4 C.F.R. § 21.1(a).

³ The RFP directed offerors not to identify staff by name, so all proposed staff were referred to in the proposal by number. RFP at 64.

competing proposals does not establish that the evaluation was unreasonable. VT Griffin Servs., Inc., B-299869.2, Nov. 10, 2008, 2008 CPD ¶ 219 at 4. In reviewing a protest against an agency's evaluation of proposals, our Office will not reevaluate the proposals, but instead will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. Shumaker Trucking & Excavating Contractors, Inc., B-290732, Sept. 25, 2002, 2002 CPD ¶ 169 at 3.

Additionally, while our decisions have concluded that agencies may not conduct a technical evaluation based solely on a comparison of an offeror's proposed staffing to an undisclosed staffing requirement, where an agency's comparison of an offeror's proposed staffing to an IGCE goes beyond a comparison of the bottom line numbers, and includes a reasonable analysis of the specific areas where the proposed staffing is inadequate, we will not object. See Kellogg Brown & Root, Inc., B-291769, B-291769.2, Mar. 24, 2003, 2003 CPD ¶ 96 at 5-6.

In this case, the TET Consensus Report demonstrates that the agency looked closely at this specific area of Davis's proposal, and did not mechanically rely on a comparison of bottom-line numbers. TET Consensus Report at 32-33. Instead, the evaluators engaged substantively with the nature of the work described in the PWS, and concluded that the staff proposed by the protester were unlikely to be able to perform those tasks at an acceptable level of performance. Id. For example, the TET noted that the government-furnished property management requirement involved significant record maintenance, accounting, and inventory tasks that could not be reasonably performed by one quarter of an FTE. Id. at 33. The protester's objections here amount to little more than disagreement with the agency's evaluation.

Additionally, contrary to the protester's contentions concerning employee No. 13, Davis's proposal is not clear what role employee No. 13 would play with respect to option paragraph 5.1.1. While the proposal, in the technical narrative, suggests that employee No. 13 would be "augment[ed]" by employee No. 30 in performing option paragraph 5.1.1, the proposal does not explain to what extent or in what way employee No. 13 would be working on that effort. AR, Tab 21, Davis Proposal, Technical Approach, at 9. More significantly, the detailed staffing plan and staffing diagrams provided later in Davis's technical proposal do not indicate that employee No. 13 would be supporting option paragraph 5.1.1 in any capacity, nor is employee No. 13 denoted as "option matrixed"⁴ on that chart. See AR, Tab 21, Davis Proposal, Management Approach, Appendices 1 and 2. It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information that 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,

⁴ Davis's proposal refers to staff supporting multiple efforts as "matrixed" or "option matrixed." See, e.g., AR, Tab 21, Davis Proposal, Management Approach, Appendix 2.

B-411415.2, July 22, 2015, 2015 CPD ¶ 240 at 5-6. Accordingly, we have no basis to conclude that the agency erred in assigning these weaknesses.

Significant Weakness Related to Test and Evaluation

With respect to the test and evaluation technical sub-element, the agency identified one significant weakness. TET Consensus Report at 35-36. The agency assessed this significant weakness because Davis proposed two test support personnel in support of PWS option paragraph 7.1, general test support, while that PWS paragraph requires contractor staff to perform front-desk security screening, act as road guards, supervise road crossings, perform line handling for waterborne testing aboard boats, and perform several other activities, in some instances at the same time. Id. The agency concluded that it would be physically impossible for two individuals to perform all those requirements simultaneously, and accordingly assigned a significant weakness. Id.

In response, the protester contends that the agency erred in several respects. First, the protester contends that it proposed three staff in response to option paragraphs 7.1 and 7.2 generally, rather than two staff as the agency alleged. Protester's Comments at 7-9. Second, the protester notes that the solicitation did not require the simultaneous performance of all the described tasks. Id. Finally, the protester argues that it has successfully performed this requirement in the past, and that, while it previously performed similar functions with between five and nine FTEs, it concluded, based on its experience performing the requirement, that it can now accomplish the tasks with the three FTEs it proposed. Id.

As a preliminary matter, the protester's claim that it assigned three FTEs to option paragraphs 7.1 and 7.2 reflects a misreading of the agency's concern, which was that Davis only proposed two FTEs for subparagraph 7.1 specifically. See TET Consensus Report at 35-36. While Davis's technical narrative addresses paragraph 7.1 and 7.2 as a whole and does not clarify which of the three staff will respond to which requirements, Davis's staffing plan clearly notes that two FTEs were assigned to perform the requirements of subparagraph 7.1, and one FTE was assigned to perform the requirements of subparagraph 7.2. See AR, Tab 21, Davis Technical Proposal, Management Approach, Appendices 1 and 2. To the extent that the protester now argues that it proposed all three staff for both subparagraphs, that representation is inconsistent with the plain language of its staffing plan and organizational chart.

Further, with regard to the protester's argument concerning the simultaneous performance of tasks, the PWS appears to contemplate a significant number of actions at least some of which would logically need to occur simultaneously, at three or four separate locations. RFP at 35-36. The protester does not provide any explanation for how it would accomplish the necessary tasks with two staffers, whether simultaneously or sequentially. With respect to the protester's argument concerning historical workload, the protester concedes that it required between five and nine FTEs to perform a similar requirement in the past, and the protester has not provided any concrete explanation as to why two (or even three) FTEs would be adequate in the future.

Protester's Comments at 9. Accordingly, we cannot conclude that the agency was unreasonable in concluding that two individuals may be unable to successfully perform those requirements.⁵

Weaknesses Related to AAV-Specific Approach

With respect to the AAV-specific approach technical sub-element, the agency identified two weaknesses. TET Consensus Report at 37-38. The agency assessed the first weakness because the protester proposed only one individual, employee No. 4, to perform the requirements of PWS paragraph 4.8.1, AAV Survivability Upgrade, Sustainment, and Modifications Program Management. Id. Specifically, this PWS paragraph included three detailed subparagraphs each involving significant work that could not effectively be performed by one person, such as developing statements of work, evaluating and developing alternatives to address emerging requirements, addressing issues with fleet-fielded AAVs, and developing information briefs. See RFP at 26-27.

The agency assessed the second weakness because Davis proposed only two full-time staff to support the requirements of PWS paragraphs 4.8.5.2 and 8.1, for base and option work related to amphibious vehicle logistics management planning. TET Consensus Report at 37-38. While Davis proposed five individuals and one contingency hire overall, all but two of those individuals were also assigned significant other work and the agency concluded that the proposed individuals would be unable to support the quantity of work contemplated by these PWS paragraphs, which involved several dozen distinct tasks. Id.

Regarding the first weakness, the protester contends that the agency misread its proposal in concluding that it only proposed employee No. 4 for PWS paragraph 4.8.1. Protester's Comments at 9-10. Specifically, Davis contends that its proposal provided that employee No. 4 would lead the effort, but would be supported by a team of five experienced systems engineers. Id. Regarding the second weakness, Davis argues that the agency simply failed to understand its matrixed approach to staffing for PWS paragraphs 4.8.5.2 and 8.1, and that it is successfully performing the existing requirements using the staffing it proposed. Id.

The protester's arguments are unavailing. First, while the protester's technical narrative suggests that employee No. 4 may be supported by other employees, the protester's staffing plan and organizational plan clearly indicate that only employee No. 4 is supporting PWS paragraph 4.8.1. Compare AR, Tab 21, Davis Proposal, Technical

⁵ Additionally, we note that the testing schedule provided to prospective offerors by the agency indicated that several different test events would run simultaneously at various times, which would necessitate simultaneous performance of additional tasks, and would compound the described logistical problems. AR, Tab 4, Industry Day Brief, at 11.

Approach, at 20, with Management Approach, Appendices 1 and 2. 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. Accordingly, because Davis's proposal contained contradictory and inconsistent information concerning its staffing of this requirement, the protester cannot now complain that the agency has misunderstood its approach.

Second, even assuming the protester is correct that its proposed staffing is adequate for the existing workload, PWS paragraph 4.8.5.2 alone represented the base workload, while PWS paragraph 8.1 represented an option that would involve significant additional work. See COS/MOL at 29-36. The protester's arguments do not meaningfully rebut the agency's concern that the protester's technical proposal did not adequately address how the protester intended to perform the additional work represented by the option. See Protester's Comments at 9-10.

Weaknesses Related to ACV-Specific Approach

Regarding the ACV-specific approach technical sub-element, the agency identified one weakness and two significant weaknesses. TET Consensus Report at 38-43. The agency assessed the first weakness because Davis proposed one individual, employee No. 48, to perform the requirements of PWS base paragraph 4.5.3, ammunition management, and option paragraph 10.1.8, amphibious combat vehicle technical manual support. Id. at 39. Specifically, the agency assessed the weakness because the option paragraph would require frequent attendance at meetings and conferences, which would effectively prevent the same individual from performing the ammunition management requirements. Id.

The agency assessed the first significant weakness because the agency concluded that Davis's proposal did not provide adequate detail concerning how resources would be shared among the various ACV-specific tasks. TET Consensus Report at 40-41. Specifically, Davis's proposal indicated that several FTEs would be divided among various ACV-specific tasks, but did not indicate what approximate percentage of those FTEs would be devoted to various tasks. Id. As a result, the agency concluded it was unclear if certain tasks that were only supported by partial FTEs would have adequate support. Id. Similarly, the agency assessed the second significant weakness because Davis proposed one individual, employee No. 46, to perform the requirements of PWS base paragraph 4.5.1.2, ACV government property, and option paragraph 10.1, relating to ACV supply support. Id. at 41-42.

Here, the protester contends that it proposed the same approach that it successfully performed under the incumbent contract, and notes that the solicitation did not require offerors to specify the percentages or fractions of time that each FTE would be assigned to any given task. Protester's Comments at 11-12. Accordingly, the protester argues, these weaknesses result from an unstated evaluation criterion, and a misreading of its proposal. Id.

First, for the reasons discussed above, the fact that the protester successfully performed the incumbent contract with a given approach does not address the agency's concerns about how the protester will accomplish the new tasks represented by the option paragraphs. Second, while the protester is correct that the solicitation did not specifically require offerors to denote percentages or fractions of FTEs, because of the protester's heavy reliance on splitting of FTEs, it is difficult to understand elements of the protester's proposed approach without such percentages or fractions. Moreover, as discussed 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. In this case, the agency was unable to determine from the protester's proposed approach what level of support certain tasks would receive and in what manner those tasks would be accomplished, and we see no basis in the record to suggest that that conclusion was unreasonable.

Weaknesses Related to Management Approach

Finally, the agency identified two significant weaknesses for the protester's management approach. TET Consensus Report at 45. The agency assessed the first significant weakness on the basis that Davis's staffing plan chart did not adequately explain how Davis would fulfill the PWS requirements. Id. Specifically, the agency found that the staffing plan contained numerous inconsistencies concerning FTE percentages, such that the evaluators could not follow the proposed approach. Id. For example, Davis's proposal listed employee No. 21 as providing 0.5 FTE of effort on each of two PWS paragraphs. AR, Tab 21, Davis Proposal, Management Approach, Appendices 1 and 2. However, employee No. 21 is also described in the technical approach narrative as supporting a third PWS paragraph, which is inconsistent with the staffing plan, given that the staffing plan assigned 100% of the employee's effort to other paragraphs.⁶ AR, Tab 21, Davis Proposal, Technical Approach, at 2. The agency

⁶ The protester objects to this example because it does not appear in the technical evaluation. Protester's Comments at 15. The protester suggests that this amounts to a post hoc rationalization, which we should not consider. Id. In reviewing an agency's evaluation, we do not limit our consideration to contemporaneously-documented evidence, but instead consider all the information provided, including the parties' arguments, explanations, and any hearing testimony. The S.M. Stoller Corp., B-400937 et al., Mar. 25, 2009, 2009 CPD ¶ 193 at 13. While we generally give little or no weight to reevaluations and judgments prepared in the heat of the adversarial process, Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15, post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details, will generally be considered in our review of the rationality of selection decisions--so long as those explanations are credible and consistent with the contemporaneous record. Remington Arms Co., Inc., B-297374, B-297374.2, Jan. 12, 2006, 2006 CPD ¶ 32 at 12. In this case, the technical
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assessed the second significant weakness on the basis that Davis proposed three FTEs for paragraphs 7.1 and 7.2, instead of the seven FTEs that Davis had employed to perform the incumbent effort. TET Consensus Report at 45. In this regard, the agency concluded that Davis did not adequately explain how it intended to perform the same amount of work (or a potentially increasing workload) with less than half the assigned staff. Id.

As a preliminary matter, the protester argues that these weaknesses, in effect, duplicate weaknesses already assigned for the protester's technical approach. Protester's Comments at 15-16. Specifically, the protester notes that several of the above-discussed weaknesses related to inconsistencies between the staffing plan and the technical approach, and Davis's proposal was already assigned a significant weakness related to its staffing of PWS paragraphs 7.1 and 7.2 under the test and evaluation technical sub-element. Id.

We do not agree that the agency improperly double-counted the protester's weaknesses. Where, as here, the record shows that multiple weaknesses reasonably relate to the evaluation factors under which they were assigned, there is nothing inherently wrong with an agency assigning multiple weaknesses where the same flaw is relevant to multiple evaluation factors. See UNICCO Gov't Servs., Inc., B-409111 et al., Jan. 23, 2014, 2014 CPD ¶ 55 at 11 n.6 (an agency may properly consider an element of a proposal under more than one evaluation criterion where the element is relevant and reasonably related to each criterion under which it is considered).

While several of the weaknesses, discussed above, involved inconsistencies between the technical narrative and the staffing plan, the first significant weakness assigned to Davis's management approach stemmed from the agency's inability to understand the protester's management approach, as a whole, due to the volume of inconsistencies considered together. See TET Consensus Report at 45. Significantly, Davis's management approach contained additional inconsistencies that did not form the basis of any of the above assigned technical weaknesses. See COS/MOL at 48. The first significant weakness related directly to Davis's proposed management approach, and was an entirely distinct concern from the above-described technical weaknesses, which related to inconsistencies affecting the accomplishment of specific aspects of Davis's technical approach.

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evaluation clearly contemplated that the significant weakness was assessed because of "[i]nconsistencies . . . related to several full time equivalents covering multiple paragraphs, and the full time equivalent percentages did not make sense; therefore, causing ambiguity across the board" TET Consensus Report at 45 (emphasis in original). While the contemporaneous technical evaluation did not provide examples of the inconsistencies described, the example offered by the agency is clearly consistent with the nature of the TET's contemporaneous findings, and is therefore appropriate for our consideration.

While the second significant weakness may appear, at least in part, to overlap with the significant weakness assigned under the test and evaluation sub-element above, it likewise relates to the agency's concerns with the protester's management approach, as distinct from the earlier expressed concerns with the protester's technical approach. Specifically, as discussed above, the test and evaluation significant weakness related to proposed staffing that seemed to be inadequate to physically perform the requirements PWS paragraph 7.1, while the significant weakness assigned here involved concern about the lack of explanation concerning Davis's planned reduction in staff for this element from the staffing levels previously used to perform both PWS paragraphs 7.1 and 7.2. TET Consensus Report at 35-36, 45. Notwithstanding that the two significant weaknesses stem from overlapping factual predicates, the faults identified independently relate to Davis's technical approach and its management approach, respectively, so it is not clear that these significant weaknesses represent inappropriate double-counting.⁷ See Octo Consulting Group, Inc., B-416097.3, B-416097.4, Sept. 24, 2018, 2018 CPD ¶ 339 at 5-6.

Turning to the merits, the protester argues that the agency, again, overlooked elements of its proposal. Protester's Comments at 15-17. Specifically, the protester contends that its proposal included significant explanatory detail, which should have addressed the agency's concerns that prompted the first significant weakness. Id. Additionally, the protester notes that the agency, in assessing the second significant weakness, was unduly reliant on the IGCE in concluding that Davis had not proposed adequate staff, and did not consider Davis's innovative approach. Id.

These arguments are likewise without merit. With regard to the protester's contention that the agency ignored material in its proposal that adequately explained its management approach, we do not agree. As discussed throughout this decision, the protester's proposal contained numerous inconsistencies that make several key aspects of its technical and management approaches, at minimum, ambiguous. Additionally, the agency identified several of Davis's proposed staffing decisions that appear questionable, if not logistically impossible. See, e.g., TET Consensus Report at 35-36, 39, 45. In short, on this record, we see no basis to question the agency's conclusion that the protester's management approach was not clear from its proposal, and that, as

⁷ However, even assuming for the sake of argument that this significant weakness represents inappropriate double-counting, to the extent it overlaps with the test and evaluation significant weakness, it is not clear that the protester can show that it was prejudiced by this error. That is to say, even if the management approach significant weakness were narrowed in scope to remove the overlapping elements in PWS paragraph 7.1, it would still represent a distinct weakness concerning PWS paragraph 7.2. It seems unlikely, on these facts, that the agency would have reached a different evaluative conclusion had Davis's proposal been assessed six weaknesses and four significant weaknesses, rather than five weaknesses and five significant weaknesses.

a result, it was unclear whether the proposed approach was adequate to accomplish the requirements of the solicitation.

Likewise, the record does not support the protester's contention that the agency inappropriately or mechanically relied on the IGCE in assessing the second significant weakness. See TET Consensus Report at 35-36, 45. While the agency's evaluation of this element was more fulsome in its technical approach discussion than in the management approach discussion, when read as a whole, the technical evaluation shows that the agency carefully considered the area and examined the specific nature of the tasks required in considering whether Davis's proposed staffing approach could meet those requirements. Id. Accordingly, we see no basis to conclude that the agency erred in this regard.

Alleged Strengths and Best-Value Tradeoff

For the reasons described above, we conclude that the agency was reasonable in assessing the various weakness and significant weaknesses. Furthermore, the TET was clear that they assessed a deficiency in Davis's proposal on the basis of the cumulative effect of the assessed weaknesses and significant weaknesses. TET Consensus Report at 29. Therefore, we cannot conclude that the agency erred in determining that Davis's proposal was unacceptable and ineligible for award. See Id.; RFP at 69.

As a result, we do not reach Davis's arguments concerning the alleged strengths of its proposal and the best-value tradeoff decision because any errors in that respect did not prejudice Davis. Competitive prejudice is an essential element of every viable protest; where, as here, the record establishes no reasonable possibility of prejudice, we will not sustain a protest even if a defect in the procurement is found. See Procentrix, Inc., B-414629, B-414629.2, Aug. 4, 2017, 2017 CPD ¶ 255 at 11-12.

The protest is denied.

Thomas H. Armstrong
General Counsel