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Decision

Matter of: Booz Allen Hamilton, Inc.

File: B-418125; B-418125.2; B-418125.3

Date: January 15, 2020

Jason A. Carey, Esq., Kayleigh M. Scalzo, Esq., and Peter B. Terenzio III, Esq., Covington & Burling LLP, for the protester.
Alexander B. Ginsberg, Esq., Meghan D. Doherty, Esq., and Aaron S. Ralph, Esq., Pillsbury Winthrop Shaw Pittman LLP, for Cognosante, LLC, the intervenor.
Jason A. M. Fragoso, Esq., and Vanessa L. Calabrese, Esq., Department of Veterans Affairs, for the agency.
Kasia Dourney, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging an agency's evaluation of an awardee's past performance quotation as improperly crediting it with the past performance of an affiliate is denied where the awardee's quotation demonstrated it acquired full ownership of the affiliate, including its workforce and resources, and the solicitation's terms did not prohibit consideration of an affiliate's past performance.
2. Protest challenging evaluation of an awardee's price quotation is denied where the evaluation was reasonable and consistent with the solicitation's terms.
3. Protest alleging that an awardee received an unfair competitive advantage based on hiring a current government employee for a key personnel position is denied where the agency investigated the matter and reasonably concluded that no unfair competitive advantage was conferred upon the awardee.
4. Protest challenging the agency's best-value decision is denied where the agency reasonably concluded that the awardee's quotation was superior to the protester's quotation under the non-price evaluation factors, and merited award despite a slight price premium.

DECISION

Booz Allen Hamilton, Inc. (BAH) of Falls Church, Virginia, challenges the establishment of a blanket purchase agreement (BPA) and award of a call order to Cognosante, LLC, under request for quotations (RFQ) No. 36C10X-19Q-0016, issued by the Department of Veterans Affairs (VA) for implementation support services to transform the Veterans Health Administration (VHA) into a High Reliability Organization (HRO).¹ BAH challenges the agency's evaluation of vendors' quotations and its award decision.

We deny the protest.

BACKGROUND

The solicitation was issued on July 30, 2019, under the procedures of Federal Acquisition Regulation (FAR) section 8.405-3, to vendors holding General Services Administration (GSA) Professional Services Schedule (PSS) contracts, with special item number 874-1, integrated consulting services. RFQ at 561; AR, Tab 9, Best-Value Determination (BVD), at 4-5. The RFQ anticipated establishment of a BPA and award of a fixed-price/labor-hour hybrid call or task order, for a base year and four 1-year options, to provide advisory and assistance services to the VHA to support and facilitate its transformation to an HRO.² RFQ at 465. The scope of work included performance of on-site assessment diagnostics, provision of training and support of national HRO training initiatives, analysis of outcomes, recommended implementation plans, and execution of implementation plans. Id. Work was to be performed at the VA's 167 medical centers, located across the country. Id. at 464.

The solicitation provided for establishing the BPA with a GSA schedule holder on a best-value tradeoff basis, considering the following four factors, in descending order of importance: capability and experience, past performance, involvement of veterans, and price. RFQ at 572. The capability and experience factor was significantly more important than past performance, which was more important than veterans'

¹ The concept of HRO refers to "organizations that operate in complex, high-hazard domains for extended periods without serious accidents or catastrophic failures." See High Reliability--Background, Department of Health and Human Services, Agency for Healthcare Research and Quality, available at <https://psnet.ahrq.gov/primer/high-reliability> (last accessed on Jan. 6, 2020). The agency explains that the "HRO concept" was first developed in high-risk, operationally complex industries, such as nuclear energy and aviation, where the consequences of error can be severe. Agency Report (AR), Tab 5, RFQ, at 464. According to the VA, the healthcare industry has begun in recent years to adopt these practices to "improve consistency and safety." Id.

² The agency also contemplated award of subsequent call orders for specific tasks throughout the period of performance, either on a fixed-price basis, a labor-hour basis, or a hybrid of the two. RFQ at 499-500.

involvement; all non-price factors, when combined, were significantly more important than price. Id. The capability and experience factor also included four subfactors: technical/management approach, staffing/management plan, key personnel, and experience in implementation of high reliability in federal government and/or commercial healthcare.³ Id. at 573.

Under the past performance factor, vendors were instructed to:

submit a narrative detailing up to three (3) contracts (prime contracts, task/delivery orders, and/or major subcontracts) in performance during the past three (3) years from the date of issuance of the final solicitation, which are relevant to the efforts required by the RFQ.

RFQ at 567. Of relevance here, the solicitation included no restrictions on identifying the past performance of an affiliate or a subsidiary. Id.

With regard to the price evaluation methodology, the RFQ advised that the agency would evaluate price for reasonableness by assessing: (1) the reasonableness of the quoted labor rates, as well as (2) the weighted labor rates of the first call order, calculated based on the level of effort and the mix of labor proposed to perform the specific tasks being ordered. Id. at 577.

The performance work statement for the first call order provided that it would be a fixed-price/labor-hour hybrid, consisting of 18 fixed-price contract line item numbers (CLINs) for certain deliverables, as well as CLINs for ongoing HRO implementation support, to be provided on a labor-hour basis.⁴ AR, Tab 5.1, RFQ attach. K, 1st Call Order Weighted Labor. Of relevance here, while labor-hour CLINs were to be included in the first order, the submitted labor-hour CLIN prices were not to be used for evaluation purposes. RFQ at 578. Instead, the RFQ established an approach providing that “for the purposes of evaluation and comparison only,” the agency will “calculate a weighted average labor rate” for each vendor, based on (1) the government’s estimate of the distribution of hours for each task order; and (2) vendors’ proposed direct labor hourly rates. Id. at 577. To calculate the weighted labor rate, vendors were to enter their labor rates into an Excel spreadsheet--worksheet 1 in the RFQ’s attachment K--which had an embedded formula that automatically calculated the weighted labor rates, based upon the prices the vendor entered into each cell on the spreadsheet. Id.

³ The technical/management approach and HRO implementation experience subfactors were to be addressed in an oral presentation, while staffing/management plan and key personnel subfactors were to be addressed in a written submission. RFQ at 573-74.

⁴ As the agency points out, labor-hour and hybrid arrangements were necessary at the initial stage of performance, “due to the unquantifiable nature” of the requirement. AR, Tab 4, Acquisition Plan, at 12. The VA anticipated that “over time, it [would] gain a clearer understanding of level of effort and [would] be able to homogenize an approach that leads to [fixed-price] arrangements.” Id.

With respect to the quoted labor rates, the RFQ stated that the agency would compare these rates to “[the] approved GSA schedule labor rates for both the BPA base period and future option periods, to ensure the rates are at or below the published rates and therefore fair and reasonable.” Id.

With respect to the total evaluated price, the RFQ provided that the total agency-estimated hours for the period would be multiplied by a vendor’s weighted labor rate to determine the period’s labor-hour price. Id. at 578. This labor-hour price would then be added to the proposed fixed-price CLINs and a plug number provided by the agency for the maximum allowed travel costs.⁵ The RFQ noted, in this regard, that while labor-hour CLINs were included in the first call, with CLIN ceilings established by the agency, “these Labor Hour CLIN Prices (Ceiling) will not be used for evaluation purposes.” Id. Finally, the proposed BPA pricing (made up of base and option years’ labor rates, and first call evaluated price, as described above) would be used in the best-value analysis. Id.

The agency received five quotations in response to the RFQ, including those from BAH and Cognosante; the protester’s and the awardee’s quotations were evaluated as follows:

	BAH	Cognosante
Capability and Experience	High Confidence	High Confidence
Past Performance	Moderate Risk	Moderate Risk
Involvement of Veterans	Some Consideration	Some Consideration
Price (BPA and Task Order Price)	Fair and Reasonable	Fair and Reasonable

AR, Tab 12, Brief Explanation of Award, at 1.

Their total evaluated prices were calculated as follows:

	BAH	Cognosante
Fixed Price (CLINs 0001-0018)	\$(DELETED)	\$(DELETED)

⁵ Hence, the total evaluated price would be calculated by adding the following:

- (1) vendors’ fixed price for CLINs 0001-0018;
- (2) an estimated cost for labor-hour CLINs 0019-0056, which was reached by multiplying the vendor’s weighted labor rate by 88,320 total hours estimated by the government;
- (3) a plug number of \$840,916.50 for travel CLIN 0057; and
- (4) a plug number of \$300,000 for materials CLIN 0058.

RFQ at 578; see also AR, Tab 5.1, RFQ attach. K. The RFQ advised that labor-hour CLINs 0019-0056 each had a ceiling of \$500,000. Id.

Weighted Avg. Labor Rate x Gov't Estimated Hours	[\$[DELETED] x 88,320 hrs = \$[DELETED]	[\$[DELETED] x 88,320 hrs = \$[DELETED]
Travel	\$840,916.50	\$840,916.50
Order Level Materials	\$300,000.00	\$300,000.00
Total Evaluated Price	\$11,330,891.42	\$12,689,734.58

Contracting Officer's Statement (COS) at 9. While Cognosante's quotation provided no escalation price for option years 2, 3, and 4, BAH's quotation provided for a [DELETED] percent escalation for each option year. AR, Tab 9, BVD, at 120, 110.

The agency established the BPA and placed an initial order with Cognosante on September 27, 2019. COS at 4. The value of the first call order issued to Cognosante was \$26,200,000. Id. at 9-10. Subsequently, the agency sent notices of award to the unsuccessful vendors and, on October 4, provided brief explanations of the award decision. Id. at 4-5. This protest followed.

DISCUSSION

BAH raises numerous challenges to the agency's evaluation of the technical and price quotations. BAH also argues that Cognosante received an unfair competitive advantage based on proposing for a key position a person who was employed by the VA when quotations were submitted. Finally, the protester alleges that the agency's best-value decision was unreasonable.⁶ We have reviewed all of the protester's allegations and, although we do not address them all, we conclude that none of them provides a basis upon which to sustain the protest.⁷ Below, we discuss BAH's primary contentions.

Evaluation of Cognosante's Past Performance

⁶ In its second supplemental protest, BAH also argued that the agency conducted unequal discussions with vendors but subsequently, it withdrew this protest ground. Protester's Comments on 2nd Supp. AR at 1.

⁷ For example, the protester asserts that Cognosante's quotation did not comply with the RFQ's key personnel requirements because the company posted job openings for three of the four key personnel positions less than a week after award; hence, according to BAH, Cognosante either lost its key personnel after award or failed to comply with the RFQ's key personnel requirements. Protest at 18-19. The agency maintains, and we agree, that the protester's allegations in this regard are speculative, and BAH provided no proof that any proposed key person was unavailable at the time of award. See also Second Decl. of Cognosante's Vice President for Growth and Operations (stating that Cognosante's key person in question remains available to start work on the contract).

BAH asserts that the agency's evaluation of Cognosante's past performance was flawed because the VA credited Cognosante for the past performance of a recently purchased affiliate even though Cognosante's quotation failed to explain whether the affiliate would be meaningfully involved in performance on the current requirement. Comments & 2nd Supp. Protest at 2, 5-9. The agency argues that Cognosante's quotation explained that the awardee had acquired full ownership of this affiliate, Business Information Technology Solutions⁸ (BITS), and its quotation showed that some of BITS's prior management would be involved in the current requirement. The agency therefore concluded that Cognosante could be credited for the past performance and experience of this affiliate. 2nd Supp. COS at 3-4.

An agency properly may attribute the experience or past performance of a parent or affiliated company to a vendor where the firm's quotation demonstrates that the resources of the parent or affiliate will affect the performance of the vendor. See, e.g., Deloitte Consulting, LLP, et al., B-411884 et al., Nov. 16, 2015, 2016 CPD ¶ 2 at 7. The relevant consideration is whether the resources of an affiliated company--its workforce, management, facilities or other resources--will be provided or relied upon for contract performance, such that the parent or affiliate will have meaningful involvement in contract performance. Id. Where a quotation shows a significant nexus between the parent or affiliate concern's resources and the contracting entity, there is nothing objectionable in attributing the experience or past performance of the related entities to the business entity entering into the contract. Cf. Language Select LLP, dba United Language Grp., B-415097, B-415097.2, Nov. 14, 2017, 2017 CPD ¶ 359 at 10.

The RFQ here instructed vendors to provide a description of no more than three past performance references for relevant work the vendor performed either as a prime contractor or a subcontractor in the past three years. RFQ at 567. The solicitation included no restrictions on submissions of past performance of an affiliate or a subsidiary. Id.

Cognosante's past performance quotation indicated that one of its proposed key personnel formerly worked for BITS, and was listed in the quotation as a principal for BITS. AR, Tab 8, Cognosante's Quotation, at 25. Of particular importance here, Cognosante's quotation represented that in October 2016, Cognosante Holdings, LLC, "obtained 100% ownership in BITS"; further, it provided that "[t]his acquisition expanded Cognosante's capability, including ongoing contracts with VA, DOD [Department of Defense], the Department of the Navy, and the Defense Health Agency, among others." Id. at 26.

⁸ Cognosante explained in its quotation that Cognosante Holdings, LLC, purchased BITS in October 2016, which was providing "organizational transformation" support services to VHA at the time. AR, Tab 8, Cognosante's Quotation, at 25-26. Later, BITS changed its corporate name to Cognosante MVH, LLC. Id. at 26.

The agency contends that Cognosante's quotation provided a reasonable basis for the agency to conclude that the two companies, BITS/Cognosante MVH and Cognosante, LLC, shared the same team and resources, all of which would be used in performance of the current contract. 2nd Supp. MOL at 3-6. For example, the quotation indicated that one person proposed for a key personnel position, who also participated in oral presentations, is a former principal for BITS, but now works for Cognosante, LLC. AR, Tab 8, Cognosante's Quotation, at 44-45.

BAH asserts that, nonetheless, Cognosante should not be given credit for its affiliate's past performance because Cognosante did not explain how it would access the assets of BITS/Cognosante MVH. Protester's 2nd Supp. Comments at 4-6, citing Alutiig Pac., LLC, B-409584, B-409584.2, June 18, 2014, 2014 CPD ¶ 196 (protest sustained where awardee provided insufficient information about affiliates' intended performance, despite RFP requirement).

We note, however, that in contrast to the facts in Alutiig, where "the proposal [did] not clearly detail or explain how the affiliated concerns [would] contribute meaningfully to contract performance, as required by the solicitation," Cognosante's quotation explained that it "obtained 100% ownership in BITS." The proposal also explained that the company intended to use a former BITS principal in a key position here. Alutiig, *supra*, at 1; AR, Tab 8, Cognosante's Quotation, at 26; *see also* GeoNorth LLC, B-411473 *et al.*, Aug. 6, 2015, 2015 CPD ¶ 247 at 4-5. Thus, we find that the record provides a reasonable basis for the agency to attribute the past performance of BITS/Cognosante MVH to Cognosante. *See* Harbor Servs., Inc., B-408325, Aug. 23, 2013, 2013 CPD ¶ 214 at 4 (agency reasonably credited awardee for experience of predecessor firm, where record showed key personnel and assets were transferred or otherwise available to awardee). Accordingly, this protest ground is denied.

Evaluation of Cognosante's Price Quotation

BAH next claims that the agency's evaluation of Cognosante's price quotation was unreasonable and the VA "misevaluated" vendors' total prices; according to BAH, the \$26.2 million award to Cognosante "exceeds the RFQ's ceiling for the base year," and the agency therefore violated a material term of the solicitation. Protest at 12. After the agency addressed this allegation in its agency report, BAH did not attempt to rebut the agency's response.⁹ Instead, BAH raises a supplemental protest ground, contending that the VA "deviated from the RFQ's stated evaluation scheme" when it concluded that "Cognosante had a price advantage" and presented a better value to the government even though it was BAH that "had a lower evaluated price." Protester's Comments & 2nd Supp. Protest at 3, 15. BAH notes that the source selection authority made the following statement in the best-value determination:

⁹ Because BAH's comments do not address the agency's response to this initial protest ground, we find that BAH has abandoned this issue, and do not consider it further. *See* Batelco Telecomms. Co. B.S.C., B-412783 *et al.*, May 31, 2016, 2016 CPD ¶ 155 at 4 n.5.

While Cognosante's weighted average labor rate is higher, its pricing for the [fixed-price] CLINs offers significant savings over BAH's [fixed-price] CLINs. If future task orders include [fixed-price] CLINs similar to those in call order one and these quoters were to price future tasks similarly, the cumulative price savings is significant.

Id. at 15 (citing AR, Tab 9, BVD, at 141-42).

In essence, BAH asserts that the agency improperly inflated the importance of the fixed-price CLINs--which in Cognosante's quotation were nearly [DELETED] percent lower than in BAH's quotation--to predict savings on future orders. Id. at 15.

The agency contends that its price evaluation was consistent with the scheme outlined in the RFQ. COS at 8. Specifically, the RFQ provided that the agency anticipated establishing a BPA, and issuing subsequent fixed-price/labor-hour hybrid call orders. Nonetheless, the RFQ also advised that while labor-hour CLINs were included in the first order, with CLIN ceilings established by the government, these labor-hour CLIN prices were not to be used for evaluation purposes. Id. at 578. The agency points out that its contemporaneous evaluation record clearly recognized that Cognosante's price quotation had an evaluated price of \$12,689,734.58, and that this price was 12 percent higher than BAH's quotation. The agency noted, however, that Cognosante's quotation offered additional benefits, both in terms of the likelihood of implementation of high reliability goals as well as potential future price savings, and that these benefits justified the 12 percent price premium. Second Supp. MOL at 16. Moreover, the agency contends that there was nothing improper about the selection official's observation that Cognosante offered significantly lower prices for fixed-price CLINs, and that this could result in future savings to the agency. Id. at 17-18.

On this record, we agree. The solicitation established the price evaluation criteria and outlined the price elements the agency would consider for evaluation of vendors' price quotations.¹⁰ The RFQ provided that the agency might simultaneously establish a BPA with a vendor and award a call order under the BPA; and that resulting orders were to be awarded on a fixed-price/labor-hour basis. RFQ at 572. The agency reasonably concluded that the fixed-price CLINs proposed by Cognosante offered significant savings to the agency; the VA also properly reasoned that no escalation price in Cognosante's quotation for option years 2, 3, and 4 provided an opportunity for

¹⁰ To the extent the protester complains that the RFQ should have established a different price evaluation scheme, this protest ground is untimely. Our Bid Protest Regulations contain strict rules for the timely submission of protests, and protests of alleged apparent solicitation improprieties must be filed prior to the closing time for receipt of quotations. See 4 C.F.R. § 21.2(a)(1); Allied Tech. Group, Inc., B-402135, B-402135.2, Jan. 21, 2010, 2010 CPD ¶ 152 at 9 n.10. Since BAH failed to do so, this protest ground is untimely, and will not be further considered.

additional, future savings to the government. BAH's disagreement in this regard does not show that the agency's judgment was unreasonable.

Organizational Conflict of Interest, Unfair Competitive Advantage and Appearance of Impropriety Allegations

BAH also alleges that Cognosante received an unfair competitive advantage based on proposing a then-current VA employee as one of its key personnel. Supp. Protest at 1, 4-8. BAH argues that this person's role in Cognosante's proposal created the appearance of impropriety, which the VA failed to meaningfully investigate, and that the person "likely possesses non-public information about VA's requirements." *Id.* at 4-8, 11-12. Specifically, the protester complains that VA's "expedited investigation"¹¹ of the allegations, conducted after the supplemental protest was filed, was "perfunctory and not meaningful."¹² Protester's Comments on Supp. AR at 2.

The agency counters with a memorandum summarizing the results of the investigation completed by the contracting officer, concluding that there was no OCI¹³ because the

¹¹ The record reveals that in response to BAH's supplemental protest, the contracting officer conducted an expedited investigation of the conflict of interest allegations raised in the supplemental protest, and concluded that the VA employee at issue did not have access to non-public information related to the HRO requirement, and that there was no basis to conclude that Cognosante received any unfair competitive advantage from proposing this employee. Supp. AR, Tab 4, Nov. 13 Addendum to Organizational Conflict of Interest (OCI) Memorandum (OCI Addendum).

¹² Specifically, the protester complains that the investigation was insufficient because the contracting officer failed to "investigate or understand" the employee's "role at VA," conducted only a few "brief conversations" with the employee at issue "and Cognosante," reviewed "no documents" and made no attempts to determine the extent to which the employee had access to nonpublic, useful information. Protester's Comments on Supp. AR at 2. As we will discuss below, we find those complaints without merit.

¹³ Although the VA characterizes the issue here as an OCI, a matter which is investigated under FAR subpart 9.5, challenges based on an offeror's hiring or association with government employees who have access to non-public, competitively useful information are more accurately categorized as unfair competitive advantages under FAR subpart 3.1. *See, e.g., Northrop Grumman Systems Corp.*, B-412278.7, B-412278.8, Oct. 4, 2017, 2017 CPD ¶ 312 at 6-8; *Threat Mgmt. Grp.*, B-407766.6, July 3, 2013, 2013 CPD ¶ 167. Subpart 9.5 of the FAR addresses organizational conflicts of interest, not situations where an offeror allegedly gains an unfair competitive advantage from its retention of a government official. The concerns underlying both provisions are, however, "virtually indistinguishable." *International Res. Grp.*,

VA's employee did not have access to any type of non-public information that could give rise to a competitive advantage, and was not involved in the development of the HRO requirement. Supp. MOL at 3-6. The agency maintains that BAH's allegations are entirely speculative and devoid of the facts needed to establish an OCI. Id.

Contracting agencies are to avoid even the appearance of impropriety in government procurements. FAR § 3.101-1. Where a firm may have gained an unfair competitive advantage through its hiring of a former government official, the firm can be disqualified from a competition based on the appearance of impropriety that results. This is true even if no actual impropriety can be shown, so long as the determination of an unfair competitive advantage is based on facts and not mere innuendo or suspicion. Health Net Fed. Servs., LLC, B-401652.3, B-401652.5, Nov. 4, 2009, 2009 CPD ¶ 220 at 29. Thus, a person's familiarity with the type of work required, resulting from the person's prior position in the government, is not, by itself, evidence of an unfair competitive advantage. Rather, there must be "hard facts" establishing the person's access to non-public information, which could provide a firm with an unfair competitive advantage. Id.; see also SRM Grp., Inc., B-410571, B-410571.2, Jan. 5, 2015, 2015 CPD ¶ 25 at 9; Harkcon, Inc. v. United States, 133 Fed. Cl. 441, 463-64 (Fed. Cl. 2017) (applying the "hard facts" standard to an appearance of impropriety claim).

To resolve an allegation of an unfair competitive advantage under these circumstances, we typically consider all relevant information, including whether the government employee had access to competitively useful inside information, as well as whether the government employee's activities with the firm were likely to have resulted in a disclosure of such information. Physician Corp. of Am., B-270698 et al., Apr. 10, 1996, 96-1 CPD ¶ 198 at 4-5. Whether the appearance of impropriety based on an alleged unfair competitive advantage exists depends on the circumstances in each case; there is no appearance of impropriety when "[a] disinterested observer knowing all the facts and the applicable law would see nothing improper." R & W Flammann GmbH v. United States, 339 F.3d 1320, 1324 (Fed. Cir. 2003). The responsibility for determining whether to continue to allow an offeror to compete in the face of such an alleged impropriety is a matter for the contracting agency, which will not be disturbed unless there is clear evidence that the agency's conclusion is unreasonable. See Superlative Techs., Inc.; Atlantic Sys. Grp., Inc., B-415405 et al., Jan. 5, 2018, 2018 CPD ¶ 19 at 5; VSE Corp., B-404833.4, Nov. 21, 2011, 2011 CPD ¶ 268 at 7; Health Net Fed. Servs., LLC, supra.

The record here reveals that in response to BAH's supplemental protest, the contracting officer conducted an expedited investigation of possible conflicts arising from Cognosante's employment of the VA employee. On November 13, 2019, the

B-409346.2 et al., Dec. 11, 2014, 2014 CPD ¶ 369 at 9 n.9. Accordingly, although BAH's supplemental protest raises allegations under FAR § 3.101-1, and VA conducted its review under FAR § 9.505-2, see Supp. AR, Tab 4, OCI Addendum, at 6, we view this protest ground as an allegation of unfair competitive advantage under subpart 3.1 of the FAR.

contracting officer issued a seven-page memorandum summarizing his analysis. Supp. AR, Tab 4, OCI Addendum.

Specifically, the contracting officer's memorandum was intended to determine:

- (1) whether [the employee] participated in the development of requirements for the HRO program and eventual solicitation; [and]
- (2) whether [the employee] had non-public information that she provided to Cognosante for use within the preparation of its quotation.

Id. at 3.

First, the contracting officer established that the individual at issue here was a chief of organizational improvement and engagement at the VA southern [DELETED] rehabilitation center and clinic (the [DELETED] clinic), a residential rehabilitation center offering primary care, mental health outpatient services, and specialty services. Supp. COS at 5. In her role, the employee served as "site facilitator and advisor to VA [DELETED] [clinic] leaders" in the areas of the clinical and workforce improvement, change management, data analytics, improvement consultation and education, and employee engagement programs at the VA facility. The contracting officer also determined that this local VA medical facility is "not connected with the Office of Healthcare Transformation" (OHT) in Washington, D.C., which was responsible for the development of the RFQ requirements. Id.

Next, the contracting officer conducted interviews with "relevant stakeholders[,] including the [Program Manager from the] Office[] of Healthcare Transformation, Government evaluators (of the Staffing Plan as well as evaluators for other factors), Cognosante personnel who interacted with [the VA employee at issue] and prepared and delivered Cognosante's quote, and [the employee] herself." Supp. AR, Tab 4, OCI Addendum, at 3. The interviews conducted individually with three members of the oral presentation evaluation team established that none of the evaluators had ever heard of the government employee at issue. Id. at 4. Also, the three members of the staffing evaluation team individually stated that they first saw the VA employee's name during the evaluation process; finally, the staffing evaluation team member responsible for development of the requirement stated that the VA employee did not contribute directly or indirectly to the HRO requirement. Id. Furthermore, the contracting officer interviewed the VA employee, who indicated that she had no involvement with the development of the national program related to HRO. Supp. AR, Tab 4, OCI Addendum, at 4.

Based on these interviews and the information obtained, the contracting officer determined that the VA employee "played no part in development of the requirements for HRO." Id. at 5. In addition, he concluded that she was "unaware of the HRO contract scope," "had no knowledge of the immediate contract requirement," and "would have had no access to the requirements information during the requirements development phase," because of how and where they were maintained at the OHT

SharePoint site. Id. In sum, the contracting officer established that the government employee did not have direct or indirect “access to non-public information” relevant to HRO requirement. Additionally, based on information received from Cognosante, including a signed declaration from its vice president for growth operations, the employee “did not provide any specific information to Cognosante for use within the preparation of its quotation that would convey an unfair competitive advantage.” Id.

On these facts, we have no basis to question the reasonableness of the contracting officer’s determination that no unfair competitive advantage exists. See Health Net Fed. Servs., LLC, supra. In this regard, the facts do not establish that the former chief of organizational improvement and engagement at the VA [DELETED] clinic had access to any non-public, competitively useful information related to this procurement. The government employee affirmed as much, and the contracting officer’s investigation did not reveal any evidence supporting the protester’s allegations.

We find no factual support for the existence of unfair competitive advantage, or for the protester’s other allegations. Given the considerable discretion afforded contracting officers in this area, we have no basis to find the contracting officer’s determination unreasonable. This protest ground is denied.

Best-Value Decision

Finally, BAH alleges that the agency’s best-value analysis was flawed because BAH submitted a less expensive quotation, and both companies received identical technical ratings; therefore, BAH argues that it should have received the award.¹⁴ Protest at 19-20.

As the agency correctly points out, the similarity in the adjectival ratings does not present “the full factual picture.” COS at 22. Specifically, the agency maintains that Cognosante offered “numerous substantial non-price benefits that more than justify the 12% evaluated price premium.” Id. (citing AR, Tab 9, BVD at 142). The agency documented some of those benefits as follows:

Cognosante provides unmatched key personnel in the HRO industry, providing the greatest confidence to the Government. The value of access to up-front HRO subject matter expertise at this level during performance is paramount to program success. There will be a need for junior positions during performance and in the sustainment phase, but that work is dependent on the success of the HRO foundation, which is informed by the SME’s [subject matter experts]. BAH does not provide this level of expertise. Additionally, Cognosante provides a strong

¹⁴ In two supplemental protests, BAH includes additional arguments as to why the agency’s best-value decision was unreasonable. We have reviewed all those allegations and find that none provides a basis upon which to sustain the protest.

approach that includes a predictive model of HRO maturity and employee burnout, which could provide significant savings to the Government.

AR, Tab 9, BVD, at 142.

As noted above, the RFQ provided for a best-value source selection based upon an integrated assessment of each vendor's quotation under the technical solution, experience, past performance and price evaluation factors, with price being the least important factor.

When making tradeoff decisions in a best-value source selection, selection officials have considerable discretion. Omega Apparel, Inc., B-411266, June 26, 2015, 2015 CPD ¶ 205 at 6. The propriety of the cost/technical tradeoff decision does not turn on the difference in the technical scores or ratings per se, but on whether the selection official's judgment concerning the significance of the difference was rational and consistent in light of the RFP's evaluation scheme. Id. The documentation supporting the decision must be sufficient to establish that the selection official was aware of the relative merits and costs of the competing proposals. General Dynamics--Ordnance & Tactical Sys., B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 8.

Here, we find that the best-value determination sufficiently documented why Cognosante's quotation offered the best value to the government, and why the quotation warranted payment of a 12 percent price premium. BVD at 141. Accordingly, we find the agency's best value decision reasonable and consistent with the RFQ's evaluation scheme.

The protest is denied.

Thomas H. Armstrong
General Counsel