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# Decision

**Matter of:** ORBIS Sibro, Inc.

**File:** B-418165.7; B-418165.8; B-418165.10

**Date:** April 12, 2021

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Jerome S. Gabig, Esq., and Christopher Lockwood, Esq., Wilmer & Lee, PA, for the protester.

Stuart W. Turner, Esq., and Eric Valle, Esq., Arnold & Porter Kaye Scholer, LLP, for Synchron, LLC, the intervenor.

Cara R. Little, Esq., Chinedum U. Okparaeke, Esq., and John G. Lennon, Esq., Department of the Navy, for the agency.

Young H. Cho, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. Protest challenging the agency's implementation of corrective action is denied where the record shows that the agency reasonably implemented its corrective action by reevaluating proposals and conducting a new source selection tradeoff analysis.
  2. Agency's evaluation and selection of a higher-rated, lower-priced proposal for award are unobjectionable where the agency's evaluation and best-value tradeoff decision were reasonable and consistent with the terms of the solicitation.
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## DECISION

ORBIS Sibro, Inc., of Charleston, South Carolina, protests the issuance of a task order to Synchron, LLC, of Fairfax Station, Virginia, under request for proposals (RFP) No. N66604-18-R-3012, issued by the Department of the Navy, to procure program, business, and engineering management, as well as integrated logistics support services. The protester challenges the agency's implementation of corrective action, evaluation of the awardee's proposal, and selection decision.

We deny the protest.

## BACKGROUND

The solicitation, issued on August 22, 2018, as a small business set-aside pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 16.5, sought proposals

from holders of the agency's SeaPort-e indefinite-delivery, indefinite-quantity (IDIQ) multiple award contract, for comprehensive engineering, program management, and integrated logistics support services for offices within the program executive office (PEO) referred to PEO Submarines (PEO SUB) and Team Submarine.<sup>1</sup> Agency Report (AR), Encl. 2, Conformed Solicitation at 1, 7, 94.<sup>2</sup> The solicitation contemplated the issuance of a cost-plus-fixed-fee, fixed-price, and cost-reimbursable task order, with a 1-year base period and four 1-year option periods.<sup>3</sup> *Id.* at 19, 94, 95.

Award would be made on a best-value tradeoff basis considering the following evaluation factors: technical capability, past performance, and cost/price. *Id.* at 113-114. The technical capability factor was comprised of three subfactors: technical capabilities/corporate experience; personnel; and management plan.<sup>4</sup> *Id.* at 113. The first two subfactors were of equal importance and each more important than the third subfactor. *Id.* at 114. The solicitation advised that the technical capability factor was more important than the past performance factor, and the two factors, when combined, were significantly more important than the cost/price factor. *Id.*

The Navy received four timely proposals, including those from ORBIS and Synchron. Contracting Officer's Statement (COS) at 9. On September 23, 2019, the agency made award to Morgan Business Consulting, LLC. *Id.* at 10. The disappointed offerors, including ORBIS, filed protests with our Office challenging the award to Morgan. *Id.* Subsequent to the filing of the protests, the agency notified our Office of its intent to take corrective action. *Id.* Specifically, the agency committed to, at a minimum, reevaluating the proposals in accordance with the solicitation and making a new

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<sup>1</sup> PEO SUB focuses on the design, construction, delivery, and conversion of submarines and advance undersea and anti-submarine systems. <https://www.navsea.navy.mil/Who-We-Are/Program-Executive-Offices> (last visited Apr. 9, 2021). Team Submarine is a combination of the PEO SUB, the Deputy Commander for the Undersea Warfare, and the Undersea Technology Officer, and unifies once diverse submarine-related activities into a single submarine-centric organization. [https://www.secnv.navy.mil/rda/Pages/PEO\\_Submarines.aspx](https://www.secnv.navy.mil/rda/Pages/PEO_Submarines.aspx) (last visited Apr. 9, 2021).

<sup>2</sup> The solicitation was amended once. All citations to the record are to the consecutive numbering in the pages in the Adobe PDF format of the documents provided by the agency.

<sup>3</sup> Although this is a task order competition under a multiple-award IDIQ contract, the agency issued the solicitation as an RFP rather than a request for quotations and refers to the submissions of proposals (and offers) from offerors instead of quotations from vendors. For consistency and ease of reference to the record, we do the same.

<sup>4</sup> The technical capability factor also included seven pass/fail requirements: transition plan; clearance plan; Navy nuclear propulsion information plan local office; local liaison office(s); quality control plan; organizational conflict of interest statement/mitigation plan; and software development plan. RFP at 101-103.

selection decision. B-418165.1, ORBIS Sibro, Inc., Electronic Protest Docketing System (Dkt.) No. 18 (Navy confirming that corrective action would “include reevaluations and a subsequent source selection decision.”). The agency also stated that it would consider all protest grounds in its review and reserved the right to take any other corrective action deemed appropriate. AR, Encl. 3, Notice of Corrective Action. Based on the agency’s proposed corrective action to reevaluate the proposals and make a new selection decision, we dismissed the protest as academic. *ORBIS Sibro, Inc.*, B-418165.1, Nov. 7, 2019 (unpublished decision).

The offerors’ proposals were subsequently reevaluated by a source selection evaluation board (SSEB) and cost evaluation team (CET) as follows:

	<b>ORBIS</b>	<b>Synchron</b>
<b>Technical Capability<sup>5</sup></b>	Good/Low Risk	Good/Low Risk
<b>Technical Capabilities/ Corporate Experience</b>	Good	Good
<b>Personnel</b>	Good	Good
<b>Management Plan</b>	Acceptable	Acceptable
<b>Pass/Fail Requirements</b>	Pass	Pass
<b>Past Performance<sup>6</sup></b>	Satisfactory Confidence	Substantial Confidence
<b>Total Evaluated Cost</b>	\$127,395,767	\$106,998,695

Supp. AR, Encl. 5, Source Selection Advisory Council (SSAC) Report at 4, 10. An SSAC was convened to review the proposals and the evaluation reports from the SSEB and CET. The SSAC concurred with, and adopted, the findings of the evaluation teams. The SSAC then performed a comparative analysis of the proposals, conducted a tradeoff analysis, and made a recommendation for award to Synchron. The source selection authority (SSA) concurred with the SSAC’s analysis and recommendation, and determined that Synchron’s proposal provided the best value to the government. Supp. AR, Encl. 4, Source Selection Authority Decision Document (SSDD) at 1, 5.

On December 21, 2020, the agency informed ORBIS that award had been made to Synchron. AR, Encl. 5, Notice to Unsuccessful Offeror at 1. Subsequently ORBIS

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<sup>5</sup> The RFP stated in addition to assigning adjectival ratings under the technical capability factor (outstanding, good, acceptable, marginal, and unacceptable), the agency would also assess technical risk ratings (low, moderate, high, and unacceptable). RFP at 115-116.

<sup>6</sup> The available confidence ratings for the past performance factor are: substantial confidence, satisfactory confidence, limited confidence, no confidence, and unknown confidence. RFP at 117-118.

requested and received a debriefing, which concluded on December 31. See generally AR, Encl. 7, ORBIS's Debriefing Package. This protest followed.<sup>7</sup>

## DISCUSSION

ORBIS challenges the agency's implementation of corrective action and the evaluation of Synchron's proposal.<sup>8</sup> In filing and pursuing this protest, ORBIS has made arguments that are in addition to, or variations of, those discussed below, as well as arguments that were withdrawn or abandoned during the development of the protest.<sup>9</sup>

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<sup>7</sup> The value of the task order here exceeds \$25 million. Accordingly, this protest is within our Office's jurisdiction to resolve protests involving task orders issued under IDIQ contracts established pursuant to the authority in title 10 of the United States Code. 10 U.S.C. § 2304c(e)(1)(B).

<sup>8</sup> During the development of the protest, the agency requested that our Office dismiss several protest grounds. On two of these issues GAO agreed, and advised the parties that we would dismiss. Dkt. 18; Dkt. 55, GAO Notice of Ruling on Agency Req. for Partial Dismissal and Document Production.

In the first, ORBIS argues that Synchron is not eligible for award for because Synchron does not have an office within 15 miles of the Washington Navy Yard, and because Synchron's local office allegedly fails to satisfy the solicitation requirements. Protest at 8-11. We dismiss this argument because it does not state a valid basis of protest. 4 C.F.R. §§ 21.1(c)(4), 21.5(f). Here, the solicitation contained no requirement that the offeror have, at the time of proposal submission, the facilities that the protester claims the awardee does not have. Rather, under the technical capability factor, the solicitation required offerors to provide a plan for obtaining or demonstrating it has the required facilities. RFP at 102. Accordingly, the fact that the awardee does not have such facilities would not render it ineligible for award.

For the second, ORBIS also argues in its supplemental protest that because the agency relaxed a material requirement, the agency was required to amend the solicitation and provide offerors an opportunity to submit revised proposals. Supp. Protest at 2-3. We dismiss this protest ground as untimely because ORBIS was made aware during its debriefing that the agency waived certain key personnel provisions but did not raise this issue until it filed its supplemental protest. AR, Encl. 7, ORBIS Debriefing Package, Encl. 2, ORBIS Tech. Evaluation Consensus Report at 21-23. ORBIS's argument, which was raised more than 10 days after it knew or should have known of its basis of protest, is untimely. 4 C.F.R. § 21.2(a)(1).

<sup>9</sup> For example, the protester raised, but subsequently withdrew a number of protest grounds including the following arguments: (1) challenges to the agency's evaluation of the firm's cost proposal; (2) the agency should have sought clarifications; (3) the agency should have found Synchron's proposal unacceptable on its face because it is the incumbent contractor's ostensible subcontractor; and (4) arguments challenging the agency's evaluation of Synchron's proposal under the technical capability factor,

While we do not address every issue raised, we have considered all of the protester's arguments, to the extent they have not been withdrawn or abandoned, and conclude that none furnishes a basis on which to sustain the protest.<sup>10</sup>

### Corrective Action

ORBIS raises two arguments challenging the agency's implementation of corrective action following the dismissal of its earlier protest. ORBIS first argues that despite promising to consider all protest grounds raised in the previous protest, the record contains no evidence that the agency addressed the issues ORBIS previously raised. Protest at 6-8; Comments, Feb. 16, 2021, at 1-10. ORBIS also argues that the agency failed to document and explain why it lowered the adjectival ratings assigned to the ORBIS proposal during the reevaluation. Protest at 15-17; Comments, Feb. 16, 2021, at 18-20.

The Navy explains that its corrective action resulted in a complete reevaluation of all proposals, a new tradeoff analysis, and a new selection decision by a new source selection team. The Navy also argues that it had no obligation to perform a comparative analysis to explain the differences between the two evaluations. Memorandum of Law (MOL) at 3-12, 15-20.

We have recognized that the mere promise--without implementation--of corrective action has the effect of circumventing the goal of the bid protest system. *DirectViz Solutions, LLC*, B-417565.3, B-417565.4, Oct. 25, 2019, 2019 CPD ¶ 372 at 4; *Research Analysis & Maint., Inc.*, B-410570.6, B-410570.7, July 22, 2015, 2015 CPD ¶ 239 at 7. Thus, where an agency fails to implement the promised corrective action, the agency's actions have precluded the timely, economical resolution of the protest. *Id.*

In essence, ORBIS complains that the agency's documentation of its reevaluation does not substantively address how the agency considered or resolved ORBIS's previously

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personnel subfactor, and selection decision. Comments, Feb. 16, 2021, at 26-27; Comments, Mar. 5, 2021, at 5; Dkt. 64; Notice of Withdrawal of Protest Grounds.

<sup>10</sup> For example, ORBIS argues that the agency should have rejected Synchron's proposal for failing to comply with FAR provision 52.222-46, Evaluation of Compensation for Professional Employees. Protest at 13-15. In this regard, ORBIS does not dispute that the RFP did not include this provision but argues that it should be incorporated into the RFP under the "Christian Doctrine." *Id.* As we have often observed, the Christian Doctrine provides only for incorporation by law of certain mandatory contract clauses into otherwise validly awarded government contracts; it does not stand for the proposition that provisions are similarly incorporated, by law, into solicitations. *NCS/EML JV, LLC, B-412277 et al.*, Jan. 14, 2016, 2016 CPD ¶ 21 at 10 n.10. Although ORBIS argues that our prior decisions were "wrongly decided," and urges our Office to reconsider our decision, we see no basis to do so. Comments, Feb. 16, 2021, at 15-18.

raised arguments. Comments, Feb. 16, 2021, at 2-10. In this context, we dismissed ORBIS's earlier protest because the agency elected to reevaluate the proposals and make a new award decision, which rendered the protest academic. *ORBIS Sibro, Inc., supra*. The record shows that the agency did exactly what it represented it would do, *i.e.*, it reevaluated and made a new selection decision. See *generally* AR, Encl. 9, CET Report; Supp. AR, Encl. 4, SSDD; Supp. AR, Encl. 5, SSAC Report; Supp. AR, Encl. 6, SSEB Report. The fact that the agency's reevaluation did not address the merits of the earlier protest grounds does not mean that the agency did not take meaningful corrective action. Accordingly, this protest ground is denied.

Similarly, ORBIS's contention that the agency was obligated to provide the firm with an explanation as to why the results of the reevaluation differed from the earlier evaluation is also without merit. ORBIS does not challenge the reevaluation results; instead, it argues that the agency was required to "provide an explanation if the [reevaluation] downgrades the previous evaluation" ratings. Comments, Feb. 16, 2021, at 18. In response, the Navy explains that it was necessary to change the membership of its source selection team during the reevaluation, due, in part, to personnel turnover and attrition. COS at 11. As a result, the evaluation teams included several new members. The source selection team was also provided with new advisors as well as a new SSA. *Id.* The agency further notes that, in order to ensure a proper and thorough evaluation, the reevaluation did not rely on the previous evaluation but was performed anew. *Id.*

Our Office has consistently concluded that differing results between a reevaluation and an earlier evaluation does not constitute evidence that the reevaluation was unreasonable, since it is implicit that a reevaluation can result in different findings and conclusions. See *Global Asset Techs., LLC*, B-416576.8, B-416576.9. Nov. 22, 2019, 2019 CPD ¶ 408 at 5; *Marcola Meadows VA LLC*, B-407078.2 *et al.*, Jun. 4, 2013, 2013 CPD ¶ 141 at 8. In this regard, our Office has recognized that it is not unusual for different evaluators, or groups of evaluators, to reach different conclusions and assign different scores or ratings when evaluating proposals, since both objective and subjective judgments are involved. *MILVETS Sys. Tech., Inc.*, B-409051.7, B-409051.9, Jan. 29, 2016, 2016 CPD ¶ 53 at 7. We see no basis in this record to conclude that the agency was required to provide an explanation of why the reevaluation resulted in lower adjectival ratings. *Battelle Mem'l Inst.*, B-418047.5, B-418047.6, Nov. 18, 2020, 2020 CPD ¶ 369 at 10-11; *MILVETS Sys. Tech., Inc., supra*. Accordingly, this allegation is also denied.

## Evaluation of Synchron's Proposal

### Compliance with the Limitation on Subcontracting Clause

ORBIS argues that Synchron's proposal should have been found unacceptable because Synchron cannot comply with FAR clause 52.219-14, Limitations on Subcontracting, which was included in the solicitation. Protest at 11-12. The agency contends that Synchron's compliance with the limitation on subcontracting clause is an issue of responsibility and contract administration not for GAO's review. MOL at 12. The

agency also argues that ORBIS provides no evidence from the awardee's proposal that it will not comply with the subcontracting limitation. *Id.*

As a general matter, an agency's judgment as to whether a small business offeror will be able to comply with a subcontracting limitation presents a question of responsibility not subject to our review. *Hughes Coleman, JV*, B-417787.5, July 29, 2020, 2020 CPD ¶ 257 at 4-5 n.4; *Spectrum Sec. Servs., Inc.*, B-297320.2, B-297320.3, Dec. 29, 2005, 2005 CPD ¶ 227 at 6. A proposal need not affirmatively demonstrate compliance with the limitation on subcontracting clause. See *Dorado Servs., Inc.*, B-408075, B-408075.2, June 14, 2013, 2013 CPD ¶ 161 at 12. Rather, such compliance is presumed unless specifically negated by other language in the proposal. See *Express Med. Transporters, Inc.*, B-412692, Apr. 20, 2016, 2016 CPD ¶ 108 at 6. However, where a proposal, on its face, should lead an agency to the conclusion that an offeror has not agreed to comply with the subcontracting limitation, the matter is one of the proposal's acceptability. *TYBRIN Corp.*, B-298364.6, B-298364.7, Mar. 13, 2007, 2007 CPD ¶ 51 at 5.

On this record, ORBIS's arguments--based largely upon speculation that Synchron cannot comply with the limitation on subcontract clause--provide no basis to sustain the protest. To the contrary, the record reveals the awardee's proposal represented that "Synchron will execute over 50% of the labor cost." Supp. AR, Encl. 1, Synchron Tech. Capability Proposal at 115. In response, ORBIS claims that the CET Report contained a "smoking gun" that should have changed the conclusion about Synchron's compliance with the requirement. Specifically, ORBIS contends that data extrapolated from the CET's assessment of Synchron's cost proposal shows that 50% of the cost of contract performance incurred for personnel is not being performed by Synchron employees. Comments, Feb. 16, 2021, at 12-14 (*relying on* AR, Encl. 9, CET Report at 178).

ORBIS's computations fall short of the kind of evidence that would lead an agency to conclude that Synchron's proposal, "on its face," indicated that it would not comply with the limitation. *WAI-Stoller Servs., LCC; Navarro Research and Eng'g, Inc.*, B-408248.6 *et al.*, May 22, 2014, 2014 CPD ¶ 164 at 7 n.7 (finding that protester's alternative computation of the percentage of costs allocated to prime and subcontractors, even if correct, falls far short of the kind of evidence that would require an agency to conclude that an offeror would not comply with limitation on subcontracting clause). In addition, ORBIS does not cite to any part of the awardee's proposal that takes exception, on its face, to the clause.

We find that this is not a situation where the proposal, on its face, should have led the agency to conclude that Synchron did not agree to comply with the limitation. Without evidence that the awardee did not agree to comply, we view this argument as an assertion that the awardee is not responsible. *Hughes Coleman, JV, supra*. As stated, such arguments generally are not for our review. See 4 C.F.R. §§ 21.5(a), (b), (f). Accordingly, this protest ground is dismissed.

## Evaluation of Synchron's Cost Proposal

ORBIS next argues that the agency conducted a flawed cost realism analysis of Synchron's proposal. In ORBIS's view, if the analysis had been done correctly, the agency would have found significant errors that would have significantly reduced Synchron's cost advantage and could have affected the agency's technical evaluation. Protest at 17-18; Comments, Feb. 16, 2021, at 21-26. The agency responds that the protester's arguments are based largely on unsupported statements found in a declaration submitted by ORBIS's president, and that the cost analysis was reasonable. MOL at 20-22.

When an agency evaluates a proposal for the award of a cost-reimbursement contract or task order, the offeror's or vendor's proposed costs are not dispositive because, regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. FAR 15.404-1(d), 16.505(b)(3); *AECOM Mgmt. Servs., Inc.*, B-418467 *et al.*, May 15, 2020, 2020 CPD ¶ 172 at 4. Consequently, the agency must perform a cost realism analysis to determine the extent to which the offeror's or vendor's proposed costs are realistic for the work to be performed. FAR 15.404-1(d)(1); *see Noridian Admin. Servs., LLC*, B-401068.13, Jan. 16, 2013, 2013 CPD ¶ 52 at 5. An agency is not required to conduct an in-depth cost analysis, or to verify each and every item in assessing cost realism; rather, the evaluation requires the exercise of informed judgment by the contracting agency. *See Cascade Gen., Inc.*, B-283872, Jan. 18, 2000, 2000 CPD ¶ 14 at 8; *see FAR 15.404-1(c)*. Our review of an agency's cost realism evaluation is limited to determining whether the cost analysis is reasonable; a protester's disagreement with the agency's judgment, without more, does not provide a basis to sustain the protest. *Imagine One Tech. & Mgmt., Ltd.*, B-412860.4, B-412860.5, Dec. 9, 2016, 2016 CPD ¶ 360 at 14-15.

ORBIS first argues that the agency should have significantly adjusted Synchron's overhead rate to account for facilities that Synchron is required to provide under the contract, but does not currently possess. Protest at 17-18; Comments, Feb. 16, 2021, at 23-26. The solicitation required that the contractor provide a local office within 15 miles commuting distance of the Washington Navy Yard. RFP at 24. Under the technical capability factor, one of the pass/fail requirements assessed the offeror's plan for obtaining, or demonstrating that, it had a local office within 15 miles commuting distance of the Washington Navy Yard. *Id.* at 102, 119. The RFP required offerors to provide substantiating information such as leases or prospective lease agreements. *Id.*

Synchron proposed to satisfy this requirement by [DELETED] office and conference space [DELETED] here. Supp. AR, Encl. 1, Synchron Tech. Capability Proposal at 21-23. In its cost proposal, Synchron explained that its "overhead covers [DELETED] costs associated with [DELETED]" and stated that its overhead pool included, among other things, "[DELETED]." AR, Synchron Cost Proposal, Basis of Estimate at 5-6, 7. Synchron also submitted [DELETED] reflecting [DELETED] and [DELETED] if Synchron was awarded the task order. *See generally* AR, Synchron Cost Proposal, [DELETED].



ORBIS's arguments provide no basis to sustain the protest. In this regard, ORBIS does not identify any unrealistic aspect of Synchron's proposed rates based on the office spaces that Synchron needs to perform the work. Similarly, ORBIS does not identify any specific flaw in the CET's evaluation of Synchron's cost proposal. Rather, ORBIS argues, without any support, that the agency should have made additional upward adjustments to Synchron's overhead costs to account for, what ORBIS characterizes as, "significant facilities" necessary to perform the contract. Comments, Feb. 16, 2021, at 25. As mentioned above, Synchron's cost proposal included [DELETED] if Synchron received the contract; [DELETED] also provided [DELETED] expenses for a base year and four option years. See *generally* AR, Synchron Cost Proposal, [DELETED]. The protester's allegations regarding the credibility of the Synchron's proposed facility costs, premised only on unsupported speculation, are without merit.

ORBIS next argues that the agency's cost realism analysis of Synchron's proposal was flawed because the Navy did not make additional necessary adjustments. According to ORBIS, "Synchron has a history of not retaining its employees and providing bare minimum for employee benefits," and because Synchron's "evaluated costs were 16% lower than ORBIS's evaluated costs" it is unlikely that Synchron will be paying incumbent employees their current salaries. Protest at 17-18; Comments, Feb. 16, 2021, at 23.

During the course of this protest, ORBIS was provided with Synchron's technical and cost proposals and the agency's evaluation, under the coverage of a protective order. Despite having this information, ORBIS points to nothing in the record to support its allegations. Specifically, ORBIS posits that Synchron may have planned to recruit the incumbent contractor employees and match their existing salaries, but did not propose direct labor rates consistent with those salaries. Despite ORBIS's claims to the contrary, the record shows that the agency performed a cost realism analysis of Synchron's proposed direct labor rates and indirect rates, and made adjustments as necessary. AR, Encl. 9, CET Report at 183-187, 189-190. Again, ORBIS may disagree with the agency's assessment, but that disagreement, without more, does not provide a basis to sustain the protest. *Imagine One Tech. & Mgmt., Ltd., supra*.

#### Evaluation under Technical Capability Factor

ORBIS also argues that it was unreasonable for the agency to assess a strength to Synchron's proposal, under the technical capabilities/corporate experience subfactor, for including Lean Six Sigma processes and program management professionals (PMP).<sup>11</sup> 2nd Supp. Protest at 2-7; Comments, Mar. 5, 2021, at 6-14. Specifically, ORBIS points out that Synchron's proposal does not offer to use Lean Six Sigma to ensure the quality of deliverables, and the fact that several of Synchron's proposed key

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<sup>11</sup> The agency explains that Lean Six Sigma is a management approach used for quality control and continuous process improvement through a series of steps. 2nd Supp. AR, Encl. 1, SSEB Member Decl. at 4.

personnel have varying degrees of training in Lean Six Sigma is not a commitment by Synchron to use this process in performing the contract. 2nd Supp. Protest at 3. ORBIS also argues that the agency's evaluation was unequal because ORBIS proposed a similar methodology for improving the quality of deliverables, ISO 9000 processes, but was not assessed a similar strength for its approach.<sup>12</sup> 2nd Supp. Protest at 4-7. ORBIS contends that but for this strength, its proposal and Synchron's would have been essentially equal, and as a result, the agency's tradeoff analysis was flawed. 2nd Supp. Protest at 8-9; Comments, Mar. 5, 2021, at 14-15.

The Navy explains that Synchron thoroughly addressed the solicitation's requirement to describe the offeror's approach to maintaining schedule and quality of deliverables.<sup>13</sup> 2nd Supp. MOL at 2-8. The Navy explains that Synchron's proposal addressed this requirement in detail by specifically dedicating a section of the proposal to this topic. Supp. AR, Encl. 1, Synchron Tech. Capability Proposal at 74-75 (section 3.6). The agency states that because Synchron's proposal emphasized the roles and qualifications of its key personnel in meeting the solicitation's requirements, the agency concluded it was appropriate to mention those qualifications in assessing a strength to the proposal. 2nd Supp. MOL at 4-5. The agency further contends that the strength was assessed based on the totality of Synchron's proposed approach in this area, with particular acknowledgment of Synchron's emphasis on PMP certified and Lean Six Sigma capable personnel. *Id.* at 5-6. The agency also argues that the evaluation was not unequal because Synchron's proposal explained in detail its approach to maintaining the schedule and quality of deliverables while ORBIS's proposal did not. *Id.* at 11.

As the task order competition here was conducted pursuant to FAR subpart 16.5, our review of protests of an agency's evaluation of proposals, does not reevaluate proposals or substitute our judgement for that of the agency. Instead, our review examines the record to determine whether the agency's judgement was reasonable, consistent with the solicitation's evaluation scheme, and compliant with applicable procurement law. *SSI*, B-413486, B-413486.2, Nov. 3, 2016, 2016 CPD ¶ 322 at 5. A protester's disagreement with the agency's judgement, without more, is not sufficient to establish unreasonable agency action. *CSRA LLC*, B-417635 *et al.*, Sept. 11, 2019, 2019 CPD ¶ 341 at 9.

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<sup>12</sup> The agency explains that an ISO 9000 approach concerns that concept of establishing standards for quality. 2nd Supp. AR, Encl. 1, SSEB Member Decl. at 4.

<sup>13</sup> Under the technical capabilities/corporate experience subfactor, offerors were instructed to "describe their approach and demonstrated experience [with] maintaining schedule and quality of deliverables with minimal Government oversight or rework of deliverables," as well as describe their "[d]emonstrated experience with continuous and effective integration and interaction with internal and external organizations and activities." RFP at 103.

We find that the record shows that Synchron's proposal offered a detailed approach to maintaining schedule and quality of deliverables, providing details about its QCP and the roles of the key personnel such as the PM, deputy PM, and task leads. Supp. AR, Encl. 1, Synchron Tech. Capability Proposal at 74-75. With regard to the PM and deputy PM, Synchron's proposal specifically stated that its PM and deputy PM were PMP certified. *Id.* The proposal also stated that Synchron has "invested in highly qualified personnel in management positions across the Team," however, the proposal did not provide any additional information about task leads in this section or specifically state that the company would use "Six Sigma" or "Lean Six Sigma" processes in its approach. Rather, the resumes submitted under the personnel subfactor reflected that three of the identified task leads had Lean Six Sigma certifications. *Id.* at 87, 93, 103 (section 4.5). Hence, while we see no support for the agency's conclusion that Synchron offered to use Lean Six Sigma tools to perform this contract, we find reasonable the conclusion that Synchron "demonstrates a dedicated approach to process improvement through a thorough [QCP] executed by personnel with Lean Six Sigma and [PMP] certifications." Supp. AR, Encl. 6, SSEB Report at 32-33.

Even though we agree with the protester that Synchron did not explicitly offer to use Lean Six Sigma as a process for quality of deliverables, we do not agree the protest should be sustained. Overall, despite this issue, we find the agency's evaluation of Synchron's proposal under the technical capabilities/corporate experience subfactor to be reasonable and consistent with the stated evaluation criterion. Consequently, even with the removal of the assigned strength, ORBIS was not competitively prejudiced as a result since the superior aspects of Synchron's proposal on which the SSA relied when making his best-value tradeoff remain undisturbed.<sup>14</sup> See *Equinoxys, Inc.*, B-419237, B-419237.2, Jan. 6, 2021, 2021 CPD ¶ 16 at 6 (denying protest challenging an agency's technical evaluation where, notwithstanding apparent errors, the protester fails to establish competitive prejudice).

The basis for our conclusion that Orbis was not prejudiced here is as follows. Both offerors were assigned an adjectival rating of good under the technical capabilities/corporate experience subfactor, as well as the overall technical capability factor. As part of the SSAC's tradeoff analysis between ORBIS and Synchron, the SSAC found discriminators within the two proposals under the technical capabilities factor based on a comparison of identified unique strengths (*i.e.*, strengths not shared by both proposals) offered by each proposal. With regard to Synchron, the SSAC found that the two unique strengths identified--one of which was the above challenged strength--were of greater importance and relevance to meeting overall program requirements than

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<sup>14</sup> We also do not find that the Navy's evaluation was unequal where ORBIS's proposal did not specifically address the solicitation's requirement to maintain schedule and quality of deliverables by proposing a thorough approach based on its QCP with an emphasis on its personnel.

ORBIS's single unique strength related to its cybersecurity expertise and experience.<sup>15</sup> Supp. AR, Encl. 5, SSAC Report at 38. In our view, even if Synchron's assessed strength relating to the inclusion of Lean Six Sigma processes was removed, the unique strength regarding Synchron's demonstrated technical capabilities and corporate experience would still remain. Thus, we see no basis to conclude there would be a change in Synchron's adjectival rating of good under the technical capability factor; both Synchron and ORBIS would have one unique strength identified under that factor.

Moreover, the record shows that even if these proposals were viewed as equal under the technical capability factor, Synchron's proposal was rated higher under the past performance factor--and had a lower total evaluated cost than ORBIS.<sup>16</sup>

On this record, we see no basis to conclude that ORBIS's chances of receiving the award would have substantially improved even if the challenged strength should not have been assessed. ORBIS's remaining protest grounds do not challenge other aspects of the agency's evaluation of these two proposals under the technical capability or past performance factors. Finally, as part of the tradeoff analysis, the SSAC specifically found that there was "insufficient merit to justify paying a premium for ORBIS's proposal over a lower price proposal with higher past performance confidence from Synchron." *Id.* Accordingly, this protest ground is denied.

The protest is denied.

Thomas H. Armstrong  
General Counsel

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<sup>15</sup> Synchron's two unique strengths were (1) Synchron's significant demonstrated technical capabilities and corporate experience; and (2) inclusion of Lean Six Sigma processes and PMPs. Supp. AR, Encl. 5, SSAC Report at 38.

<sup>16</sup> ORBIS's total evaluated cost (\$127,395,767) was 19% higher than Synchron's evaluated costs (\$106,998,695). Supp. AR, Encl. 5, SSAC Report at 38. The SSAC specifically found that even if ORBIS's proposed costs (\$108,066,100) were accepted without any upward adjustment, ORBIS's proposed cost would still be higher than either Synchron's evaluated cost or its proposed cost (\$101,482,700). *Id.*