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# Decision

**Matter of:** STG LLC--Reconsideration

**File:** B-418490.3

**Date:** December 8, 2021

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## DIGEST

Reconsideration of a prior decision is denied based on a conclusion that the decision did not contain an error of fact or law.

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## DECISION

STG LLC, of Reston, Virginia, requests that our Office reconsider our decision in *STG LLC*, B-418490, B-418490.2, May 19, 2020, 2020 CPD ¶ 179, where we denied the protester's challenge to the issuance of a task order to Science Applications International Corporation (SAIC), also of Reston, Virginia. The Department of the Army issued the task order under request for task order proposals (RFP) No. W91QVN-19-R-0148, for cybersecurity, network operations, and maintenance of information technology support. The protester requests that we reconsider our decision on the basis that it contained errors of fact and law. Specifically, STG argues these errors resulted in a decision that wrongly concluded the agency did not perform an impermissible price realism analysis.

We deny the request for reconsideration.

## OVERVIEW

It is well-established that in a competition for the award of a fixed-price contract, firms must be reasonably warned when the agency may evaluate whether a low-priced proposal is unrealistic, or reflects a failure to understand the contract requirements, based on its low price. Our Office has sustained numerous protests where an agency

concludes that an offeror's proposed price is unrealistically low despite the solicitation lacking such a warning. In these instances, we find that an agency has performed an impermissible price realism analysis. At the same time, our Office has denied protests challenging an agency's assessment of performance risk where, in the absence of a price realism evaluation factor, an agency considers cost or price risk that is associated with concerns with the protester's technical proposal.

This request for reconsideration challenges our conclusion in the underlying protest that, based on the totality of the record, the agency's discussion of the protester's proposed price reflected a continued elaboration of concerns about the protester's technical proposal, and not a price realism analysis. Thus, on reconsideration, we must decide whether this finding constitutes a material error of law or fact. We conclude that the underlying decision does not contain an error warranting reversal because, while the record presents a close call, we do not view the agency's conduct as rising to the level of an impermissible price realism analysis. As discussed below, in our view, the agency's consideration of STG's proposed price during its best-value tradeoff analysis was sufficiently related to the stated evaluation criteria and concerns about STG's proposed staffing levels as to support our finding that the agency's conduct was unobjectionable.

## BACKGROUND

On February 18, STG filed a protest with our Office challenging the award to SAIC. Protest (B-418490). STG argued in that protest that the agency conducted an improper price realism analysis in a fixed-price procurement where the solicitation did not advise potential offerors of a price realism review. Put differently, STG argued that the agency applied unstated evaluation criteria. *Id.* at 13-14. The protester also argued that it was prejudiced in the agency's best-value tradeoff decision as a result of the price realism evaluation. *Id.* at 31-32.

Our prior decision in this case set forth a detailed explanation of the underlying facts, which will not be repeated here. *STG LLC, supra* at 1-4. In essence, this dispute arises over the award of a fixed-price task order on a best-value tradeoff basis to a more highly rated offeror with a higher price.<sup>1</sup>

As noted in the underlying decision, the RFP here did not notify potential offerors that the agency would use a price realism analysis in its evaluation. *Id.* at 10. Instead, the

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<sup>1</sup> For the record, this task order competition was conducted between contractors holding one of the Army's Information Technology Enterprise Solutions – 3 Services (ITES-3S) multiple-award, indefinite-delivery, indefinite-quantity (IDIQ) contracts. Thus, the procurement was conducted pursuant to Federal Acquisition Regulation (FAR) section 16.505 procedures. The underlying decision notes that GAO has jurisdiction to hear this protest of a task order under the Army's IDIQ contract given its value in excess of \$25 million. *STG LLC, supra* at 4 n.5 (citing 10 U.S.C. § 2304c(e)(1)(B)).

RFP advised that the agency would evaluate prices for completeness and reasonableness. Agency Report (AR),<sup>2</sup> Tab 15.2, RFP amend. 7, attach. 2, Award Method, Evaluation Criteria and Proposal Submission Instructions at 11-12.

Among the six evaluation factors identified in the RFP was a management approach factor. With respect to management approach, the RFP required offerors to describe their ability “to meet the Government’s IT [information technology] managerial requirements without introducing unacceptable risk and provide an appropriate mitigation of risk for continuity of operations.” *Id.* at 5. Under the management approach factor, there were six subfactors, one of which was “staffing plan” (and under the staffing plan subfactor there were five separate elements). *Id.* at 2-14. The RFP instructed offerors as follows under the staffing plan subfactor:

The Offeror’s proposed Management Approach shall clearly demonstrate the offeror’s ability to manage and meet all staffing qualifications, including key personnel, required to perform all PWS [performance work statement] tasks. The Offeror shall clearly demonstrate how they will recruit, provide qualified technical labor resources, including the use of sub-contractors, if any, with sufficient experience and expertise to accomplish all of the objectives in the PWS while maintaining 98% employee fill rate. The Offeror shall also clearly demonstrate each proposed labor category, the skill level of each category proposed, the education and experience of proposed personnel, specific plans to bring all personnel [<sup>3</sup>] during and prior to the phase-in period, the time frame for bringing personnel on board (with consideration to compliance with USFK Regulation 700-19), as well as a replacement strategy, retention policy and any anticipated training needed to maintain required certifications of personnel.

*Id.* at 6.

Further, under the third of the five elements of the staffing plan subfactor, recruitment and retention, the solicitation provided that “[t]he Offeror shall clearly demonstrate their recruitment and retention strategies to fulfill requirements identified in the PWS.” *Id.* Under another element of the staffing plan subfactor--an element also titled “staffing plan”--the RFP stated that:

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<sup>2</sup> Citations are to the agency report provided in response to STG’s underlying protest (B-418490; B-418490.2).

<sup>3</sup> The RFP quotation here is presumably missing the word “onboard.” One of the factual errors alleged in this Request is that our Office “obscured or overlooked” a word in a quotation in the prior decision where several words were purposely and expressly omitted. Req. for Recon. at 4. As a result, we elect here not to enter the presumed missing word (“onboard”) in the quoted text. Also, none of the parties have argued that USFK [United States Forces Korea] Regulation 700-19 is at issue in this protest.

The Offeror shall provide a staffing plan that logically and clearly identifies all positions required to meet the tasks listed in the PWS, including full time, part time, or subcontractor personnel as applicable. The staffing plan shall include all proposed number of people, labor categories, technical skill levels, language skills, the education and experience of proposed personnel, and a brief description of each position.

*Id.* at 7. There was no requirement in the RFP, however, for the proposals to identify the planned rate of compensation for the staff.

Upon receipt of initial proposals, and after exchanges and receipt of revised proposals, the agency evaluated the proposals received from the three offerors that were found, effectively, to be within the competitive range, *i.e.*, STG, SAIC, and a third offeror.<sup>4</sup> Of particular relevance to the discussion that follows, STG's proposal identified the incumbent contractor for this effort as one of its subcontractors. Although the incumbent contractor was not a major subcontractor (as defined in the solicitation, *id.* at 13), STG's proposal highlighted the unique role for the incumbent under STG's approach. Specifically, the proposal stated:

Our pricing enables incumbent capture and maximizes retention throughout the life of the contract. With the current incumbent contractor on our team, we are confident in the appropriate compensation levels to strategically retain the desired portions of the previous contract's workforce. We also know the difficulties the incumbent faced in maintaining a workforce that could meet the daily requirements of [the agency]. To address those challenges head on, STG is offering a comprehensive compensation and benefits package that better allows us to recruit and retain employees.

AR, Tab 17.6, STG Proposal, Cost/Price Volume, at 5.

At the conclusion of the evaluation, the proposals of STG and SAIC were rated as follows, including the subfactor ratings for the management approach factor, as relevant to this request for reconsideration:

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<sup>4</sup> The evaluation of the third offeror is not relevant to this decision.

|  | <b>STG</b>                     | <b>SAIC</b>                    |
|--|--------------------------------|--------------------------------|
| <b>Technical Approach</b>                  | <b>Acceptable</b>              | <b>Good</b>                    |
| <b>Management Approach</b>                 | <b>Good</b>                    | <b>Good</b>                    |
| Subfactor 2.1 Management Plan              | <i>Acceptable</i>              | <i>Acceptable</i>              |
| Subfactor 2.2 Organizational Plan          | <i>Good</i>                    | <i>Acceptable</i>              |
| Subfactor 2.3 Staffing Plan                | <i>Good</i>                    | <i>Good</i>                    |
| Subfactor 2.4 Regulatory                   | <i>Acceptable</i>              | <i>Acceptable</i>              |
| Subfactor 2.5 Transition Plan              | <i>Good</i>                    | <i>Good</i>                    |
| Subfactor 2.6 Quality Control Plan         | <i>Good</i>                    | <i>Good</i>                    |
| <b>Mission Operation Support</b>           | <b>Acceptable</b>              | <b>Good</b>                    |
| <b>Prime Contractor's Prior Experience</b> | <b>Acceptable</b>              | <b>Good</b>                    |
| <b>Past Performance</b>                    | <b>Satisfactory Confidence</b> | <b>Satisfactory Confidence</b> |
| <b>Total Evaluated Price</b>               | <b>\$56,731,050</b>            | <b>\$80,309,273</b>            |

AR, Tab 24, Price Negotiation Memorandum and Source Selection Decision Document (SSDD) at 45, 53-54.

With these results, the contracting officer, who also served as the source selection authority (SSA), prepared a tradeoff decision document. The decision document noted, in significant detail, the SSA's concerns about the staffing levels the incumbent provided under the prior contract; the staffing levels estimated to prepare the independent government estimate (IGE); and the staffing levels proposed by the offerors. *Id.* at 32, 52-55. Using the price of the incumbent contract, the IGE, and the prices proposed by STG and SAIC, the SSA performed a "comparative analysis" of the proposals. *Id.* at 54-55. This analysis included, among other things, dividing the total prices here by the number of full-time equivalent employees (FTE) offered. *Id.* The SSA explained that this analysis was an attempt to discern whether the offeror's price per FTE would "[mitigate, neutralize, and avoid] . . . any similar performance issues that occurred under the prior LPTA [lowest-priced technically acceptable] award which was priced too conservatively and ultimately limited contractor management flexibility and ability to obtain and provide qualified staff to address the mission support challenges that arose during performance." *Id.* at 53.

On January 24, 2020, the agency notified STG that it had issued the task order to SAIC in the amount of \$98,684,273, which, the agency explains, includes the total for all of the CLINs over the entire possible period of performance. See AR, Tab 25, Notification to Unsuccessful Offeror at 2. After a debriefing, STG filed a timely protest.

In our decision denying the protest, we concluded that the agency did not apply unstated evaluation criteria when it considered the incumbent's prior poor performance and the protester's proposed reliance on the incumbent as a subcontractor. *STG LLC, supra* at 7-8. We concluded that the contracting officer's consideration of the incumbent's performance issues in the best-value tradeoff decision was reasonable,

rational, and consistent with the solicitation. *Id.* at 8. In particular, we noted that offerors were required to “demonstrate how they would meet the requirements ‘without introducing unacceptable risk[.]’”<sup>5</sup> *Id.* (citing RFP at 3, 5-6, 9). We similarly concluded that it was reasonable for the contracting officer’s view of similarities between the predecessor effort and STG’s proposed approach to inform the best-value tradeoff decision. *Id.* at 9.

Our prior decision further concluded that the agency’s explanation in the SSDD “does not represent a price realism evaluation when read in the context of the record as a whole.” *Id.* at 10. We further explained that, “based on the totality of the record, the contracting officer’s statement on which STG bases this protest ground reflects a continued elaboration of his concerns about STG’s proposal—that is, even if STG’s proposed technical approach were executed as described, it would still present risks.” *Id.* This request for reconsideration followed.

## DISCUSSION

STG requests that we reconsider our decision denying its protest based on numerous alleged errors of law and fact. These alleged errors, in the protester’s view, led our Office to wrongly conclude that the agency did not perform an impermissible price realism evaluation.<sup>6</sup> We disagree.

In our view, our prior decision did not contain an error of law or an error of fact. Instead, our prior decision made a judgment that the facts presented did not demonstrate that the agency performed a price realism analysis in the context of a solicitation that did not expressly call for such an analysis.

We also concluded that the considerations and judgments set out in the agency’s best-value tradeoff decision were not improper, unfair, or impermissible, given the express warnings in the solicitation about the agency’s intended review. Specifically, the best-value decision was consistent with the solicitation’s indication that the agency would review how the offerors would recruit and retain qualified labor resources (at a 98

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<sup>5</sup> The risk assessments were part of the evaluations for three non-price factors: technical approach, management approach, and mission operation support. RFP at 3, 5, 9.

<sup>6</sup> The original protest also included several challenges to the agency’s technical evaluation and best-value tradeoff decision, as well as allegations of disparate treatment. See, e.g., Protest (B-418490) at 10-31; Comments & Supp. Protest (B-418490, B-418490.2) at 20-29. Our Office denied those challenges. Here, the protester requests reconsideration of our decision only with respect to our conclusion that the agency did not perform an impermissible price realism evaluation in a fixed-price procurement where the solicitation did not provide for a price realism evaluation. See generally Req. for Recon.; see also *STG LLC*, *supra* at 5-6.

percent employee fill rate) with sufficient experience and expertise to accomplish all of the objectives in the PWS.

Under our Bid Protest Regulations, to obtain reconsideration the requesting party must set out factual and legal grounds upon which reversal or modification of the decision is warranted, specifying any errors of fact or law made or information not previously considered. 4 C.F.R. § 21.14(a), (c); *Voith Hydro, Inc.--Costs--Recon.*, B-416243.5, Jan. 31, 2020, 2020 CPD ¶ 41 at 4. We have reviewed in detail each of STG's alleged errors, and conclude they do not provide a basis to reverse or modify our earlier conclusion.

## Legal Error

The gravamen of the protester's assertion of legal error is that our decision erred in not concluding that the selection official's review constituted an impermissible price realism analysis in the context of a fixed-price competitive procurement. Req. for Recon. at 5-6.

The protester also argues that our Office made a legal error in relying upon prior decisions that did not support our conclusion. *Id.* at 6-7 (citing *Octo Consulting Grp., Inc.*, B-416097.3, B-416097.4, Sep. 24, 2018, 2018 CPD ¶ 339; *Metis Sols., LLC, et al.*, B-411173.2 *et al.*, July 20, 2015, 2015 CPD ¶ 221).

As an initial matter, we note that the Federal Acquisition Regulation (FAR) does not specifically address the topic of a price realism analysis. Indeed, the term is not used in the FAR's description of price analyses found in section 15.404-1(b). Instead, FAR section 15.404-1(d)(1) defines an assessment termed a cost realism analysis, while section 15.401-1(d)(2) mandates the use of a cost realism analysis for assessing cost reimbursement contracts. A cost realism analysis is defined in section (d)(1) as follows:

Cost realism analysis is the process of independently reviewing and evaluating specific elements of each offeror's proposed cost estimate to determine whether the estimated proposed cost elements are realistic for the work to be performed; reflect a clear understanding of the requirements; and are consistent with the unique methods of performance and materials described in the offeror's technical proposal.

FAR 15.404-1(d)(1).

After defining a cost realism analysis, and requiring the use of a cost realism analysis for assessing a cost-reimbursement contract, the FAR (at paragraph (d)(3) of section 15.404-1(d)) also provides authority to use cost realism analysis techniques to assess fixed-price contracts under certain conditions, as follows:

Cost realism analyses may also be used on competitive fixed-price incentive contracts or, in exceptional cases, on other competitive fixed-price-type contracts when new requirements may not be fully understood

by competing offerors, there are quality concerns, or past experience indicates that contractors' proposed costs have resulted in quality or service shortfalls. Results of the analysis may be used in performance risk assessments and responsibility determinations. However, proposals shall be evaluated using the criteria in the solicitation, and the offered prices shall not be adjusted as a result of the analysis.

FAR 15.404-1(d)(3).

In reviewing uses of the authority granted to agencies by FAR subsection 15.404-1(d)(3), our prior decisions have explained that "an agency may . . . provide for the use of a price realism analysis for the limited purpose of assessing offerors' understanding of the solicitation's requirements or the risk inherent in offerors' proposals." *Star Contract Servs., LLC*, B-409424, Apr. 23, 2014, 2014 CPD ¶ 133 at 6 (citing *Consolidated Eng'g Servs., Inc.*, B-279565.5, Mar. 19, 1999, 99-1 CPD ¶ 76 at 10 and FAR § 15.404-1(d)(3)); *Emergint Techs., Inc.*, B-407006, Oct. 18, 2012, 2012 CPD ¶ 295 at 5 (citing *Milani Constr. LLC*, B-401942, Dec. 22, 2009, 2010 CPD ¶ 87 at 4); *Ball Aerospace & Techs. Corp.*, B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 8; *Puglia Eng'g of California, Inc.*, B-297413 *et al.*, Jan. 20, 2006, 2006 CPD ¶ 33 at 6; *Rodgers Travel, Inc.*, B-291785, Mar. 12, 2003, 2003 CPD ¶ 60 at 4; *Star Mountain, Inc.*, B-285883, Oct. 25, 2000, 2000 CPD ¶ 189 at 2.

On the other hand, our decisions have noted that the submission of even a "below-cost" price in the context of a fixed-price competitively awarded contract is not, by itself, improper. See *Arctic Slope World Servs., Inc.*, B-284481, B-284481.2, Apr. 27, 2000, 2000 CPD ¶ 75 at 13. For this reason, offerors competing for award of a fixed-price contract must be given reasonable notice where a business decision to submit a low-priced proposal may be considered as reflecting on their understanding or the risk associated with their proposal. *Milani Constr. LLC*, *supra* at 4.

The selection official here began the tradeoff analysis with a review of the technical evaluation board report and the Comparative Analysis report provided by the requiring activity. Then, as an overlay, the selection official conducted an independent analysis and reached a judgment about which proposal offered the best value. The dispute here lies in how to characterize the analysis conducted by the selection official in making the best-value tradeoff decision, and whether the analysis was improper or unfair to the protester given the terms of the solicitation under which this competition was held.

Relevant here, the selection official divided the overall contract prices by the number of proposed staff to ascertain a total price per FTE. The selection official then compared the FTE levels of the offerors with the FTE levels of the incumbent contractor (and the FTE levels used to calculate the independent government estimate). AR, Tab 24, SSDD at 52-56. Then, based on his independent knowledge of certain performance problems encountered by the incumbent contractor, *Id.* at 52, the selection official concluded that SAIC's higher proposed FTE levels, and apparent higher compensation levels (as inferred from the above-described calculation), would present less risk of poor



performance.<sup>7</sup> *Id.* at 56. This finding was but one of several findings that led the selection official to conclude that since the technical evaluation factors were significantly more important than price, “the value of the underlying strengths to the Government and the lowest risk of performance” made the SAIC proposal the best value here. *Id.*

In reviewing the selection official’s best-value decision, there can be no dispute that there are several assessments in the decision that invoke price as part of the selection decision. For example, the selection official’s analysis considered performance risk based in part on a calculation of the total price per FTE. As quoted above, one of the possible uses of cost realism analysis techniques in a fixed-price context is that the “[r]esults of the analysis may be used in performance risk assessments. . . .” FAR 15.404-1(d)(3).

There is also no dispute that the selection official was analyzing these competitive proposals in the context of past experience with an incumbent contractor. In this context, the FAR provides that cost realism analysis techniques may be used to analyze competitive fixed-price proposals “when . . . there are quality concerns, or past experience indicates that contractors’ proposed costs may have resulted in quality of service shortfalls.” *Id.* While we agree that the assessments here were made for many of the same reasons an agency might choose to use cost realism analysis techniques to evaluate fixed-price competitive proposals, (*i.e.*, quality concerns or risk), our Office has found that such use does not necessarily translate to a conclusion that this analysis was an impermissible use of those techniques. See, *e.g.*, *Octo Consulting Grp., Inc.*, B-416097.3, B-416097.4, Sep. 24, 2018, 2018 CPD ¶ 339 at 7-9 (finding no impermissible price realism evaluation where agency’s consideration of cost risk related to underlying concerns about the protester’s technical approach). So here too, we do not find that this assessment must be labeled an impermissible price realism analysis performed in a competitive fixed-price procurement with no warning in the solicitation.

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<sup>7</sup> For the record, we acknowledge the protester’s complaints about the validity of the selection official’s decision to calculate a total price per FTE. As noted above, the solicitation here did not require offerors to provide information about the compensation of staff. Instead, the solicitation required submission of a staffing plan, and information about the proposed number of people, labor categories, technical skill levels, language skills, and the education and experience of proposed personnel. RFP at 7. As a result, the selection official explains that calculating a total price per FTE and comparing the results for the offerors, the incumbent contract, and the independent government cost estimate--as part of the tradeoff analysis--was an attempt to discern “indicators [of] whether similar problems will occur.” Req. for Recon. at 3 (citing AR Tab 2 at 11). We also note, however, that FAR subsection 15.404-1(b)(2)(iii) expressly identifies as a price analysis technique the use of “rough yardsticks (such as dollars per pound or per horsepower, or other units) to highlight significant inconsistencies that warrant additional pricing inquiry.”

In this record, although the selection official does not expressly reject the underlying technical ratings, the analysis, in essence, revisits the evaluators' assessments of the competitors' staffing plans. In this regard, as the protester points out, the selection official explains:

“Technical evaluators only assess risk from a technical stand point as they are not privy to the price information during the technical evaluation process. Therefore they could assign a good rating to a staffing plan with ***under compensated employees*** based upon staff levels and mix because ***they do not know the pricing***. While the Protestor's staffing plan could be rated 'Good' by the technical evaluators, ***the SSA must consider the relative risk of performance and execution of the proposed staffing plan.***”

Req. for Recon. at 3 (citing AR Tab 2 at 10)(emphasis in Request for Recon.).

In short, our view of the record as a whole is that the selection official was making additional judgments about the risk associated with the staffing plan offered by STG. Moreover, these judgments track the evaluation factors in this procurement that were focused on staffing plans, retention risks, and maintaining a 98 percent fill rate. See RFP at 5 (whether the management approach would provide an appropriate level of risk for continuity of operations); and 6 (whether the offeror would be able to recruit employees with experience to perform the work and maintain a 98 percent fill rate). As a result, we concluded that the selection official did not apply cost realism techniques to review whether proposals were realistic, but instead was further evaluating risks related to staffing, as indicated in the RFP. Based upon our review of the request for reconsideration and the protest record, we find no basis to conclude that our underlying decision contains a material error of law.

#### Factual Error

Finally, STG identifies four enumerated areas where, in STG's view, there were errors of fact that led our Office to reach the wrong conclusion about the alleged impermissible price realism analysis. Request for Recon. at 2-5. We have reviewed, in detail, each of the contentions, and conclude that none of them provides a basis for reaching a different conclusion about this protest.<sup>8</sup>

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<sup>8</sup> The protester also argues that the decision's statement that STG's arguments about price realism were based “solely” (*STG LLC, supra* at 9) on a single statement in the selection decision document is not accurate. While the statement at issue may have been the only contemporaneous statement in the record supporting STG's assertions, our prior decision referenced, and this reconsideration decision references, numerous pieces of evidence in the record that can be said to provide a basis for STG's argument. This matter does not support reconsideration of our prior decision.

For example, the protester argues that our decision contained an error of fact because a quotation from the tradeoff decision omitted certain words. *Id.* at 3-4. Specifically, the full quote, with all words restored (and with the restored words underlined), reads as follows:

The SSA also considered the considerable performance issues that the prior USACISA-P support contractor had for the same services under an LPTA [lowest-price technically acceptable] proposal which was priced too conservatively and ultimately limited contractor management flexibility and ability to obtain and provide qualified staff to address the mission support challenges that arose during performance.

AR, Tab 24, SSDD at 53.

In STG's view, the omission that the prior contract was awarded on an LPTA basis, as opposed to the best-value tradeoff basis here, led our Office to erroneously conclude that the selection official did not conduct an impermissible price realism analysis. Simply put, we did not then, and do not now, view the omitted words to be necessary for understanding the record. In addition, we disagree that the shortened quotation provides evidence that GAO failed to consider the entire record. Request for Recon. at 4. Nonetheless, the previously omitted language has been restored in the quotation above to appropriately acknowledge the protester's concern. This disagreement provides no basis for us to reconsider our decision. *Gulf Civilization Gen. Trading & Contracting Co.--Recon.*, B-416140.3, Nov. 20, 2019, 2019 CPD ¶ 391 at 8-10.

A second example of a factual error asserted by STG involved whether the selection official expressly indicated a concern in the decision document about STG's use of, or reliance on, the incumbent contractor for performance. In our view, while the concern about STG's reliance on the incumbent was not expressly stated in the decision document, the concern is evident throughout the analysis in the decision document (comparing the FTEs proposed by STG, SAIC, the incumbent contractor, and the independent government cost estimate).

In addition, the concern evidenced in the record about FTEs had its apparent origin in STG's business decision to highlight in its proposal the company's use of the incumbent in its approach. Specifically, STG highlighted its use of the incumbent with regard to staffing, which is the precise area where the incumbent had problems in performing.<sup>9</sup> In this regard, the proposal stated:

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<sup>9</sup> The contracting officer explained that during the prior contract, the incumbent was only able to maintain a network reliability rate of 12.9 percent in the base period of the prior contract, when the minimum performance standard was 70 percent. Contracting Officer's Statement (COS) at 5-6. The contracting officer further stated that, had the incumbent competed in this procurement, it would have been ineligible for award due to its poor past performance. *Id.* at 5.

With the current incumbent contractor on our team, we are confident in the appropriate compensation levels to strategically retain the desired portions of the previous contract's workforce. We also know the difficulties the incumbent faced in maintaining a workforce that could meet the daily requirements of [the agency]. To address those challenges head on, STG is offering a comprehensive compensation and benefits package that better allows us to recruit and retain employees.

AR, Tab 17.6, STG Proposal, Cost/Price Volume, at 5. Given the selection official's experience with the incumbent's performance, STG's confidence may have been misplaced. We have little basis to doubt that the words from the proposal quoted above were part of the reason the selection official performed the extensive analysis of FTE levels set out in the selection decision.

Further, the selection official provided additional rationale about these concerns in a statement submitted with the agency's report. COS at 5-9. This rationale explains that the concerns were based on the representations in STG's proposal, and were the reason for conducting the detailed analysis set out in the best value decision. *Id.* As stated in our prior decision, the record as a whole shows that the selection official's analysis, and tradeoff decision, were grounded in concerns about staffing problems experienced during the incumbent's performance of the prior contract. This decision, and these concerns, strongly suggest that the selection official was undertaking this analysis, at least in part, because of perceived similarities between the FTEs and staffing proposed by STG, and the FTEs and staffing used by the incumbent. Finally, there is no basis in the record to assume that these concerns, and the challenged analysis that followed, were not based, at least in part, on STG's proposed reliance on the incumbent to assist the company in staffing the effort.

The request for reconsideration is denied.

Edda Emmanuelli Perez  
General Counsel