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# Decision

**Matter of:** Navarro Research and Engineering, Inc.

**File:** B-418602.2; B-418602.5

**Date:** June 10, 2020

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## DIGEST

1. Protest that the agency unreasonably evaluated the protester's proposal is denied where the record shows that the evaluation was consistent with terms of the solicitation and all applicable statutes and regulations.
2. Protest that the agency unreasonably evaluated the awardee's proposal and improperly made its source selection decision is dismissed where the protester was ranked third overall and would not be in line for award in the event its allegations were sustained.

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## DECISION

Navarro Research and Engineering, Inc., of Oak Ridge, Tennessee, the incumbent contractor, protests the award of an indefinite-delivery, indefinite-quantity (IDIQ) contract to RSI EnTech, LLC, also of Oak Ridge, Tennessee, under request for proposals (RFP) No. 89303019RLM000002, issued by the Department of Energy (DOE) for legacy management support services. Navarro alleges that the agency unreasonably evaluated proposals.

We deny the protest.

## BACKGROUND

On July 1, 2019, DOE issued the RFP to obtain support services for the agency's Office of Legacy Management, which conducts nuclear and chemical weapon post-closure operations. Agency Report (AR), Tab A.1, RFP at 1, 3; RFP, attach. A, Statement of Work (SOW) at 2. The selected contractor would perform the following tasks: operate and maintain remedial action systems; perform routine inspections; maintain soil and groundwater treatment; monitoring services; waste disposal; and information management. SOW at 4. The RFP contemplated the issuance of fixed-price, time-and-materials/labor hour, cost-plus-fixed-fee, or hybrid task orders to be performed over a 60-month ordering period and a 6-month extension period. RFP at 3.

Award would be made on a best-value tradeoff basis considering price and technical factors. RFP at 102-103. Proposed prices would be evaluated for reasonableness and completeness. *Id.* at 103. Technical approaches would be evaluated under the following four factors, listed in descending order of importance: technical and capability approach; management approach; teaming approach; and past performance.<sup>1</sup> *Id.* The technical factors, when combined, were significantly more important than the price factor; however, the price factor would be determinative in the event that technical proposals were similar in merit. *Id.*

Five offerors, including Navarro and RSI, submitted proposals by the September 30, 2019, closing date. AR, Tab B.2, Source Selection Decision Document (SSDD) at 4. The agency's evaluation produced the following relevant results:

	<b>Navarro</b>	<b>RSI</b>
<b>Technical and Capabilities Approach</b>	Outstanding	Outstanding
<b>Management Approach</b>	Outstanding	Outstanding
<b>Teaming Approach</b>	Outstanding	Outstanding
<b>Past Performance</b>	Significant Confidence	Significant Confidence
<b>Price</b>	\$283,976,914	\$190,687,753

*Id.* at 6, 14. The source selection authority (SSA) determined that RSI's proposal was more advantageous than Navarro's proposal under the technical and capabilities approach, and management approach factors. *Id.* at 6-10, 18.

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<sup>1</sup> The technical and capability approach, management approach, and teaming approach factors would be assigned one of the following adjectival ratings: outstanding, good, acceptable, marginal, or unacceptable. RFP at 106-07. The past performance factor would be assigned one of the following ratings: significant confidence, satisfactory confidence, neutral, or little confidence. *Id.* at 107.

Specifically, the SSA noted that RSI's technical and capabilities approach included a superior quality control plan, and demonstrated extensive experience in developing, maintaining, and recertifying Occupational Safety and Health Administration Voluntary Protection Programs and streamlined approach to long-term surveillance and maintenance. *Id.* at 6-7. Although RSI's approach demonstrated poor technical understanding of the Defense Related Uranium Mines (DRUM) program, the SSA noted that RSI's approach would be easily rectified upon access to the agency's current work plan and non-public documents. *Id.* at 8.

With regard to RSI's management approach, the SSA noted that the firm proposed an effective management strategy that supported its technical approach and focused on streamlining the agency's activities. AR, Tab B.2, SSDD at 9-10. The SSA found that RSI's approach included clear lines of authority across the firm's organization, and that the firm's structure closely aligned with the agency's existing management structure. *Id.* at 10. The SSA also emphasized other aspects of RSI's proposal as particularly advantageous, including the firm's central platform to integrate Environmental, Safety, Health & Quality Assurance programmatic policy, procedures, and requirements into their operating procedures, as well as RSI's approach to cross-training personnel. *Id.*

Based on these advantages, and because RSI's proposed price was the lowest among all offerors, the agency determined that RSI's proposal represented the best value. AR, Tab B.2, SSDD at 17-18. Regarding the remaining offerors, the agency ranked Navarro's proposal as third overall. *Id.* at 18. The agency specifically noted that the second-highest ranked offeror's proposal had a more advantageous management approach and lower price than Navarro's proposal. *Id.* at 13, 18. After Navarro learned that its proposal was unsuccessful, it filed this protest with our Office.

## DISCUSSION

Navarro raises a multitude of allegations challenging the agency's conduct of the acquisition. We have reviewed all of the allegations, and conclude that none provide us with a basis to sustain the protest. We discuss the principal allegations below but note at the outset that, in reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. *SaxmanOne, LLC*, B-414748, B-414748.3, Aug. 22, 2017, 2017 CPD ¶264 at 3. To the extent we do not discuss any particular allegation, it is denied.

### Navarro's Technical and Capabilities Approach

Navarro alleges that the agency unreasonably evaluated multiple parts of its technical and capabilities approach. Supp. Protest at 10. Specifically, Navarro complains that the agency did not assign strengths to its proposal even though its corporate management, key personnel, and task order leadership possess significant similar

experience to that required here. Protest at 15-18. Navarro also alleges that the agency assigned seven strengths to its proposal that should have been significant strengths for its key personnel, and other aspects of its technical and capabilities approach. *Id.* at 18-21. Additionally, Navarro alleges that the agency evaluated its and RSI's proposals unequally.<sup>2</sup>

The evaluation of technical proposals and the determination of relative merit are generally matters within the agency's discretion, which our Office will not disturb unless they are shown to be unreasonable or inconsistent with the solicitation's evaluation criteria. *STG, Inc.*, B-415580.4, B-415580.5, July, 5, 2018, 2018 CPD ¶ 232 at 5-6. Additionally, adjectival descriptions and ratings serve only as a guide to, and not a substitute for, intelligent decision-making. *Id.* The essence of the evaluation is reflected in the evaluation record itself--the actual evaluation findings--and not the adjectival descriptions. *Id.*

When demonstrating their technical and capabilities approach, the solicitation instructed offerors to show that their key personnel satisfied pertinent position qualifications requirements, explain their approach to meeting to the SOW's requirements, describe similar experience for corporate management personnel, and provide a master quality control plan. RFP at 96-97. The solicitation advised that offerors would be evaluated based on the following:

The Offeror will be evaluated based on the extent to which the implementation of the approach demonstrates a thorough understanding of the objective, scope, and intent of the requirement; the skills, knowledge, and experience, including the ability to integrate the

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<sup>2</sup> Navarro argues that the evaluation results themselves are evidence that the evaluation was unreasonable. Navarro points out that the agency assigned only one significant strength for the entire evaluation; four of the five offerors received ratings of "outstanding"; every offeror received a past performance rating of "significant confidence"; and only two weaknesses were assigned among the top four offerors. Protester's Comments at 28. Our Bid Protest Regulations require protesters to set forth a legally sufficient basis for protest, and contemplate that we will dismiss any protest that fails to include such a legally sufficient basis. 4 C.F.R. §§ 21.1(f), 21.5(f); *Tasi, LLC*, B-418168.2, Mar. 2, 2020, 2020 CPD ¶ 92 at 3. In our view, Navarro's general allegation does not provide a legally sufficient basis because it does not show that the agency's underlying conclusions were unreasonable. Indeed, we see nothing inherently unreasonable about all competitors receiving high or similar ratings. Thus, to the extent Navarro argues that the evaluation results themselves are inherently unreasonable and evidence of a "systemic failure," we dismiss that allegation as legally insufficient.

contracted services, that contractor personnel and corporate management possess; and the extent to which the approach ensures quality services and quality work products.

*Id.* at 104.

On this record, we have no basis to object to the evaluation. The record shows that the agency reviewed all aspects of Navarro's technical and capabilities approach, and determined that the approach warranted 13 strengths. AR, Tab B.1, Source Evaluation Board (SEB) Report at 63-74; Combined Contracting Officer's Statement of Facts and Memorandum of Law (COS/MOL) at 9. The agency noted that Navarro's key personnel were very experienced, and that the firm's technical strategies would increase productivity and efficiency. *Id.* at 63. Further, the agency explains, and the record confirms, that the agency assigned strengths to Navarro based on its incumbent experience, corporate management experience, company personnel, and task order leadership. COS/MOL at 11-14. As examples, the agency assigned strengths to Navarro because its key personnel possess substantial experience, and because its teaming partner had similar corporate experience. AR, Tab B. 1, SEB Report at 65-66, 73-74. In view of the agency's detailed and comprehensive consideration of the firm's technical and capabilities approach, we find the evaluation to be reasonable.

Although Navarro may argue that many aspects of its proposal warranted separate or additional strengths, or should have been valued more highly, we do not find that position persuasive.<sup>3</sup> The protester does not demonstrate that these aspects reasonably provide additional benefit beyond that which the record shows the agency already considered, or otherwise independently merit strengths under the RFP's evaluation criteria. See *Sigmatech, Inc.*, B-417589 *et al.*, Aug. 27, 2019, 2019 CPD ¶ 306 at 6 (agency reasonably did not assign separate strengths to aspects of the protester's proposal where protester did not demonstrate that the aspects represented additional benefit or otherwise independently satisfied the solicitation's standard for a strength). Indeed, the record shows that the agency was plainly aware of the level of experience and expertise that Navarro offered. AR, Tab 1, SEB Report at 63-74; AR, Tab B.2, SSDD at 8 (noting that Navarro's aspects of technical and capabilities approach was advantageous because the firm leveraged its incumbent experience); *cf. All Star Maintenance, Inc.*, B-271119, June 17, 1996, 96-1 CPD ¶ 278 at 6-7 ("There is also no evidence that the SSA overlooked the additional strengths presented by the protester's proposal; in fact, the source selection decision specifically acknowledged the strength associated with [the protester's] incumbency. [The protester's] disagreement with the weight accorded these strengths does not mean that they were overlooked.").

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<sup>3</sup> The RFP defined a "strength" as an aspect that has "merit and exceeds specified performance or capability requirements" and presents "low risk." RFP at 106. A "significant strength" was defined as an aspect that has "merit and significantly exceeds performance or capability requirements" and presents "very low risk." *Id.*

For example, the protester argues that one of its key personnel should have been assigned a significant strength because he has received a Presidential award, has managed many relevant contracts, and has experience managing the incumbent contract. Protester's Comments at 34-36. While we acknowledge that the individual's background is impressive, we note that the RFP did not require the agency to assign a significant strength when an individual demonstrated particular characteristics, see RFP at 104; further, as noted above, the agency considered this individual's background during the course of its evaluation, see AR, Tab B.1, SEB Report at 73-74.<sup>4</sup> Thus, the protester's argument that this individual is particularly advantageous for the agency's requirement does not provide us with a basis to sustain the protest because it simply disagrees with the agency's judgment of the relative worth of that individual's experience. See *Metson Marine Servs., Inc.*, B-413392, Oct. 19, 2016, 2016 CPD ¶ 313 at 3 ("A protester's disagreement with the agency's evaluation judgments, by itself, does not render those judgments unreasonable. An agency is afforded discretion in technical evaluations, as the agency is responsible for defining its needs and for identifying the best method for accomplishing them in performance.") (internal citation omitted). Accordingly, we deny this protest allegation.

As another example, Navarro argues that its technical approach to the agency's Defense Related Uranium Mines (DRUM) program and Uranium Leasing Program (ULP) merited a "significant strength" as opposed to a "strength." The firm highlights several aspects of its technical approach as advantageous, and asserts that no other offeror can demonstrate a similar successful approach or a proven technical approach for supporting the ULP. Protest at 20. Despite the protester's argument, the record shows that the agency considered the firm's approach to both of these programs. AR, Tab B.1, SEB Report at 64. Indeed, the agency specifically assigned a strength to Navarro's approach to the DRUM program because the approach [DELETED] and can be more effectively [DELETED]. *Id.* Further, the RFP did not specify that firms with Navarro's level of experience conducting DRUM and ULP programs would be automatically assigned a "significant strength." RFP at 104. The protester's argument that its experience was more valuable than the agency recognized, standing alone, represents disagreement with the agency's judgment regarding the firm's DRUM and ULP experience. Accordingly, we deny the protest allegation.

As a final example, Navarro argues that two of the strengths assigned to the firm's proposal based on the firm's Long-Term Surveillance and Maintenance (LTS&M) approach should have merited a rating of "significant strength." Protest at 19. Navarro argues that its approach demonstrated a deep understanding of the requirement, and identified risk areas and potential solutions. *Id.* The record shows that the agency considered these aspects of the firm's proposal, but simply did not conclude that they

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<sup>4</sup> To the extent the protester argues that its key personnel should have been evaluated separately and as individual strengths, we note that the RFP's evaluation criteria does not support such a requirement. RFP at 104.

warranted the assignment of a “significant strength.” AR, Tab B.1, SEB Report at 12, 65-66, 68-69. Although Navarro may argue that its approach warranted a higher rating, the protester has again not identified any evaluation criteria mandating that its LTS&M approach be credited with a “significant strength”; moreover, we note that the allegation represents nothing more than disagreement with the agency’s judgment regarding the relative worth or quality of Navarro’s LTS&M approach. Accordingly, we deny this protest allegation.

In a related allegation, Navarro argues that the agency’s evaluation deviated from the solicitation’s evaluation criteria. Protester’s Comments at 30-32. Navarro specifically asserts that the agency’s evaluation was inconsistent with the proposal preparation instructions because the agency did not evaluate how similar personnel and corporate management experience compared to the instant requirement. *Id.*

We do not find the protester’s allegation persuasive. Even assuming that the solicitation’s proposal preparation instructions somehow bound the agency’s evaluation, we do not read these instructions as mandating that key personnel with experience on the incumbent contract were to be considered more advantageous. To illustrate, in relevant part, the RFP instructs each offeror to “demonstrate the extent of skills, knowledge, and experience resident within the company personnel (*i.e.*, key and non-key personnel) who have performed work *within a similar environment* and that is relevant to the IDIQ [SOW].” RFP at 96 (emphasis added). Similarly, the RFP instructs each offeror to demonstrate the corporate manager’s skills, knowledge, and experience performing oversight and integration services within a similar environment. *Id.* at 97.

In our view, both of these provisions require only that work be performed in a similar environment, and do not establish that the degree of similarity would result in a higher rating; indeed, we read the solicitation as instructing offerors to propose persons with high levels of experience in a similar environment, and that the level of experience would inform the agency’s evaluation. Thus, we do not find the evaluation to be unreasonable because the RFP did not require the agency to value more heavily experience gained in an identical environment versus experienced gained in a similar environment.

Moreover, the agency points out that information provided in a solicitation’s instructions provide guidance, and do not govern the evaluation. COS/MOL at 12-13. Indeed, our decisions provide that information requirements provided in the instructions portion of a solicitation are not the same as evaluation criteria; rather than establishing minimum evaluation standards, solicitation instructions generally provide guidance to assist offerors or vendors in preparing and organizing proposals or quotations. See, *e.g.*, *Sigmatech, Inc.*, B-409837 *et al.*, Aug. 22, 2014, 2014 CPD ¶ 245 at 7. Accordingly, we deny this allegation.

## Quality Control Plan

Next, Navarro argues that the agency unequally evaluated both its and RSI's quality control plans (QCP). Supp. Protest at 12. Specifically, Navarro contends that its QCP was not assigned a significant strength, even though its QCP contained the same attributes as RSI's QCP. *Id.* at 12-13.

It is a fundamental principle of government procurement that an agency must treat offerors equally, which means, among other things, that the agency must evaluate proposals in an even-handed manner. *GovernmentCIO, LLC, B-418363 et al.*, Mar. 10, 2020, 2020 CPD ¶ 102 at 8. To prevail on an allegation that the agency unequally evaluated proposals, a protester must show that the differences in ratings do not stem from differences in the proposals. *Id.* at 8-9.

The solicitation instructed offerors to demonstrate a master QCP with methodology explaining how they would control, monitor, and improve quality of work products and services. RFP at 97. The SOW described the selected contractor's duties with regard to a QCP as follows:

The Contractor has a fundamental responsibility for the control of work they perform. As a result, the Contractor shall submit a [QCP] that articulates a quality control system that ensures that the work performed meets contract requirements. The plan shall articulate how the Contractor will measure, track, report and analyze contract performance. At a minimum, the QCP must be based on the requirements of DOE Order 414.1[D], Quality Assurance, and include a self-inspection and a follow-up inspection plan; methodology for identifying and correcting problems; composition of QC [quality control] team with identification of individual roles and responsibilities; and an outline of the procedures that the Contractor will use to maintain quality, timeliness, responsiveness, customer satisfaction, and any other requirements set forth within the terms and conditions of this contract.

SOW at 19. As noted above, the solicitation advised that the agency would assess how well each offeror's technical and capabilities approach ensures quality services and quality work products. RFP at 104.

Here, the agency explains that RSI's QCP was rated more favorably because it better described how it would implement its QCP in light of the ten quality assurance criteria listed in DOE Order 414.1D, Quality Assurance.<sup>5</sup> COS/MOL at 23-24. The agency

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<sup>5</sup> Attachment 2 of DOE Order 414.1D provides the following ten quality assurance criteria: (1) management/program; (2) management/personnel training and qualification; (3) management/quality improvement; (4) management/documents and records; (5) performance/work processes; (6) performance/design;

(continued...)

shows that whereas RSI's QCP explains the specific tasks for how its quality assurance program incorporates each criterion, Navarro's proposal only explains that its QCP is aligned and consistent with the DOE Order 414.1D. *Id.* Additionally, the agency explains that RSI's QCP demonstrates how the firm's performance metrics support the agency's long-term goals, while Navarro's proposal only outlines performance metrics. *Id.* at 24, 27; see also SOW at 4 (listing the agency's six goals, such as protecting human health and the environment). Thus, the agency demonstrates that it assigned a higher rating to RSI's proposal due to differences in the proposals. Accordingly, we deny this allegation.<sup>6</sup>

### Navarro's Management Approach

Navarro alleges that the agency unreasonably evaluated its management approach. Principally, Navarro argues that its organizational structure should have been assigned

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(...continued)

(7) performance/procurement; (8) performance/inspection and acceptance testing; (9) assessment/management assessment; and (10) assessment/independent assessment. DOE Order, 414.1D, Quality Assurance, Apr. 25, 2011.

<sup>6</sup> Navarro argues that the agency failed to discriminate between its and RSI's experience. Protester's Comments at 36. Navarro complains that both its and RSI's experience levels were evaluated similarly, even though RSI has experience at one-half of the Legacy Management (LM) sites and Navarro has experience at all of the LM sites. *Id.* In response, the agency explains that the Navarro's allegation does not demonstrate unequal treatment because Navarro was assigned a strength for its experience. COS/MOL at 32. Further, the RFP does not require the agency to assess more favorably proposals where the offeror demonstrates experience at all of the sites. RFP at 104. Accordingly, we deny the allegation.

Additionally, the protester raised several other challenges of unequal treatment. See Supp. Protest at 13-16. For instance, the protester alleged that the agency unreasonably assigned three strengths to RSI but not to Navarro, even though its proposal also contained the same attributes. *Id.* at 13. In its report, the agency explains that the agency assigned those three strengths based on those features combined with other features, and that Navarro's proposal did not present that same combination of features. COS/MOL at 28-29. Navarro did not rebut the agency's positions in its comments. Where, as here, the agency responds to an allegation in its report but the protester does not rebut the agency's position in its comments, we dismiss the allegation as abandoned because the protester has not provided us with a basis to find the agency's position unreasonable. *Medical Staffing Solutions USA*, B-415571, B-415571.2, Dec. 13, 2017, 2017 CPD ¶ 384 at 3. Thus, we dismiss these allegations as abandoned because Navarro has not provided us with any basis to question the agency's explanation.

a “significant strength” as opposed to only a “strength,” because Navarro offered a proven organizational structure as the incumbent contractor. Supp. Protest at 25. Navarro also argues that the agency unequally evaluated its and RSI’s proposals. In this regard, the protester asserts that the agency unfairly equated its organizational structure with RSI’s organizational structure since Navarro’s structure was proven whereas RSI’s structure only offers the potential for successful performance. *Id.*

The management approach factor required offerors to demonstrate how they will identify, apply, and manage resources to support the requirement. RFP at 97. Offerors were instructed to demonstrate their approaches to organizational structure, recruitment and retention, managing personnel, and transition services. *Id.* at 98. In evaluating this factor, the agency would consider whether management structures supported the contract, each offeror’s ability to manage resources and track task orders, and how well each offeror could integrate activities in order to conduct a smooth transition. *Id.* at 104.

On this record, we have no basis to object to the agency’s evaluation of the protester’s organizational structure. The agency explains that it reviewed Navarro’s proposal, and determined that the firm provided an organization structure with clear lines of authority, as well as a management structure that was closely aligned with the agency’s existing management structure. COS/MOL at 105; see *also* AR, Tab B.1, SEB Report at 114-115. The agency also viewed Navarro’s organizational structure as favorable because it included a detailed chart demonstrating roles and responsibilities. COS/MOL at 105.

Further, the agency points out that Navarro’s proposal did not describe how its incumbent experience makes its organizational structure inherently superior. *Id.* Although Navarro argues that the agency was required to assess risk and that its structure presents extremely low risk due to its incumbent experience, we note that the protester’s argument simply disagrees with the agency’s judgment regarding the worth of Navarro’s experience in operating the organization structure, which without more, does not provide us with a basis to sustain the protest. See Protester’s Comments at 37-38; see *also Anders Constr., Inc.*, B-414261, Apr. 11, 2017, 2017 CPD ¶ 121 at 4 (“A protester’s disagreement with the agency’s judgment in the evaluation, without more, does not establish that the evaluation was unreasonable.”). Accordingly, we deny this allegation.

With regard to the allegation of unequal treatment, we do not find the protester’s position persuasive. The record shows that RSI was similarly awarded a strength for having a well-articulated organizational structure with clear lines of authority, and an organized corporate culture. AR, Tab B.1, SEB Report at 97. While Navarro may argue that its organizational structure offered lower risk due to its incumbent experience and therefore should have been rated superior to RSI’s organizational structure, we note that the RFP did not specifically state that incumbent experience must be evaluated as reflecting a lower risk management approach. See RFP at 104; *cf. Deployable Hospital Systems, Inc.*, B-260778.2, B-260778.3, Feb. 12, 1996, 96-1 CPD ¶ 113 at 7 (“[The protester] argues that these identical ratings reflect disparate treatment because [the

protester] has accomplished these requirements, without design adjustments, and [the awardee] merely states that it believes its proposed design will be interoperable with only minor modifications. However, nothing in the RFP dictates that actual accomplishment of the requirements, in and of itself, warrants a superior rating, and there is no reason to question [the awardee's] representations.”). Accordingly, we deny this allegation.

Next, Navarro argues that the agency unreasonably and unequally evaluated its recruitment plan. Supp. Protest at 25-26. Specifically, Navarro alleges that the RSI proposal was assigned a strength for discussing the awardee's desire to recruit Navarro's incumbent personnel, while the protester did not receive a strength for already having recruited those individuals. *Id.* at 26; see also Protester's Comments at 39. Navarro also argues that it set forth a proven recruiting approach which surpassed RSI's approach, and therefore was evaluated unequally. Supp. Protest at 26.

Here, we do not find that the record supports the protester's position on either allegation. First, the record shows that Navarro was, in fact, assigned a strength based on already having recruited its incumbent workforce. AR, Tab B.1, SEB Report at 115-16. Indeed, the agency explains, and the record confirms, that the firm's effective retention strategies will allow it to maintain successful performance (*i.e.*, maintain a smooth transition) because the strategies ensure that Navarro will not lose its qualified personnel. *Id.*; COS/MOL at 115-16. In sum, the agency assigned the protester's proposal a strength based, in part, on the protester having already recruited personnel. Thus, we deny this allegation because Navarro's argument is not supported by the record.

Second, we do not find that the agency unequally evaluated Navarro's recruitment strategies. While Navarro baldly asserts that its recruitment strategies and tools were superior to RSI's and therefore merited a strength, we note that RSI was not assigned a strength based on its general recruitment strategies; rather, the record shows that RSI was assigned a strength based on its effective recruitment strategies for transitioning into contract performance. AR, Tab B.1, SEB Report at 98 (assigning strength based on RSI's approach to recruiting incumbent staff and leveraging existing relationships with educational institutions to ensure effective transition). Indeed, RSI's strength was assigned because “[h]aving an effective approach to recruiting and hiring a highly skilled workforce without loss of institutional knowledge and unnecessary mission disruption is important.” *Id.*

Thus, Navarro's recruiting strategies were not unequally evaluated because RSI was not assigned a strength simply based on general recruiting strategies to combat employee attrition. Moreover, even if the agency assigned a strength based on RSI's recruitment strategies (*i.e.*, leveraging relationships with educational institutions, see AR, Tab B.1, SEB Report at 98), Navarro has not identified any aspect of its proposal wherein it described an identical recruitment strategy; thus, the protester has not demonstrated that the agency unequally evaluated proposals. See, *e.g.*, Protester's

Comments at 39; Supp. Protest at 26 (Navarro uses corporate recruiting, media-linked recruiting strategies, full-time recruiters, and state-of-the-art recruiting processes). Accordingly, we deny this allegation.

Navarro also argues that the agency unequally assigned strengths for recruitment and retention to both its and RSI's proposals because RSI's proposal did not support the assignment of those strengths due to unrealistic compensation packages. See Protester's Comments at 38-40. For instance, Navarro argues that it "and RSI each received a strength for reach-back capability and a strength for ability to retain employees. Because Navarro offers more realistic compensation packages, it was unreasonable for Navarro and RSI to receive equivalent strengths." Supp. Protest at 25. Similarly, Navarro argues that the agency unequally assigned strengths based on RSI's transition plan because RSI's compensation plan is too low. Protester's Comments at 40.

We deny these allegations because they do not allege unequal treatment. As noted above, when making an allegation of unequal (or disparate) treatment, a protester must show that the agency did not evaluate proposals evenly. See *GovernmentCIO, LLC, supra*. Here, Navarro's challenges do not demonstrate that the agency unevenly evaluated the proposals. Specifically, the protester's contention that RSI simply proposed lower labor rates does not meaningfully explain how the agency evaluated proposals differently. Cf. *PEAKE*, B-417744, Oct. 11, 2019, 2019 CPD ¶ 359 at 3-4, n.5 ("[A] claim that the agency found a price to be reasonable that was higher than the price required to offer a technically acceptable proposal in a best-value procurement cannot meaningfully give rise to an inference of disparate treatment."). Indeed, Navarro's allegations do not show how the agency applied a different evaluation standard by, for example, requiring Navarro to propose high prices in order to receive strengths for its management approach but not doing the same for RSI. Accordingly, we deny these allegations because they do not demonstrate unequal treatment.

#### Navarro's Teaming Approach

Navarro makes several allegations of unequal treatment with regard to its teaming approach. Navarro's allegations follow a familiar theme: the firm argues that the agency unreasonably assigned strengths to RSI's proposal, and then argues that its proposal was superior and therefore that the evaluation was unequal. Supp. Protest at 28-34. For example, Navarro argues that the RSI proposal did not demonstrate sufficient experience in managing subcontractors to merit the assigned rating, and then argues that its own proposal was evaluated unequally because it had more relevant experience. *Id.* at 28. As another example, Navarro argues that RSI's conflict resolution approach is poor because the approach is basic, does not include timelines, and does not start at the lowest managerial level; Navarro then argues that its approach is better because its approach refers to an existing conflict resolution process with an escalation process, and because the firm has never had to resort to arbitration or legal action. *Id.* at 32. We do not find that any of these allegations provide us with a basis to sustain the protest.

By way of background, the solicitation instructed offerors to describe their teaming experience. RFP at 98-99. Offerors were required to address their past experience managing subcontractors or partners; history of working relationship among the prime and subcontractors or partners; the experience and qualifications of the prime contractor; the roles and responsibilities of each teaming member; the methodology to determine how work would be distributed amongst the teaming members; how disagreements would be settled; how the prime would manage terminations and replacement of teaming members; and, how the prime contractor will manage organizational conflict of interests. *Id.* In evaluating each offeror's teaming approach, the agency would consider how well each offeror delineated lines of authority, responsibilities, distribution of work, working relationships, qualifications, past experience managing teaming members, strategies for conflict resolution, and the duration of any teaming agreements. *Id.* at 105.

When evaluating Navarro's proposal under the teaming approach factor, the agency assigned the firm a rating of "outstanding." AR, Tab B.1, SEB Report at 145. The agency noted that Navarro's approach indicates an exceptional approach and understanding of the requirements. *Id.* The agency also noted that Navarro has established an effective relationship with its teaming partner with the capability to utilize additional subcontractor support as needed. *Id.* Further, the agency assigned eight strengths based on the teaming arrangement, noting that Navarro has 25 years of experience, and has managed multiple subcontractors and large dollar-value contracts. *Id.*

On this record, we have no basis to object to the agency's evaluation of Navarro's proposal. As noted above, Navarro received the highest adjectival rating, and the agency considered multiple features, including Navarro's experience, as advantageous. Additionally, the agency shows that it followed the same process when considering both RSI's and Navarro's teaming approaches. COS/MOL at 46-47. Further, Navarro does not identify any identical features in its and RSI's teaming approaches that were evaluated differently. Supp. Protest at 26-34. Accordingly, we deny these protest allegations.

#### Navarro's Past Performance

Navarro alleges that the agency unreasonably evaluated its past performance. Protest at 27. While acknowledging that it received the highest past performance rating of "significant confidence," Navarro argues that the agency only considered five out of the six past performance questionnaires (PPQ) that it submitted. *Id.* Navarro argues that, had the agency considered the sixth PPQ, then its prospect for award would have improved. *Id.*

Where a protester challenges an agency's past performance evaluation, we will review the evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria. *Enterprise Servs. et al.*, B-415368.2 *et al.*, Jan. 4, 2018, 2018 CPD

¶ 44 at 11. An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion which we will not disturb unless the assessment is unreasonable or inconsistent with the solicitation criteria. *Id.* at 11-12. Additionally, an agency is only required to make a reasonable effort to contact an offeror's references, and, where that effort proves unsuccessful, it is unobjectionable for the agency to evaluate an offeror's past performance based on fewer than the maximum possible number of references the agency could have received. *Prime Envtl. Servs. Co.*, B-291148.3, Mar. 4, 2003, 2003 CPD ¶ 57 at 4.

Offerors were instructed to submit past performance history demonstrating management of contracts in which the size, scope, and complexity was similar to the instant requirement. RFP at 99. Offerors were required to submit past performance questionnaires for each referenced contract. *Id.* In evaluating past performance, the agency would assess the likelihood of performance based on the quality of performance for an offeror's relevant contracts. *Id.* at 105.

On this record, we have no basis to object to the agency's evaluation because the agency demonstrates that it made a reasonable effort to review the sixth PPQ. The agency explains that it received the sixth PPQ, but that the PPQ was password protected and therefore inaccessible. COS/MOL at 69. The agency requested and received a second PPQ from Navarro's reference, but this PPQ was also password protected. *Id.* at 70. The agency then again contacted Navarro's reference to obtain the password, but did not receive a response. *Id.* Here, the agency attempted to review the PPQ first by requesting from the reference a second PPQ, which also was password protected and inaccessible, and then following up with a request to obtain a second password. Based on these facts, we conclude that the agency made a reasonable attempt to obtain and review the PPQ, and do not find the agency's decision to evaluate Navarro's past performance without that PPQ unreasonable. *Cf. Prime Envtl. Servs. Co.*, *supra* at 3-4 (agency made a reasonable effort to obtain past performance information by telephoning the protester's references). Accordingly, we deny this protest allegation.

#### Challenges to the Evaluation of RSI's Proposal and Source Selection Decision

Navarro raises numerous challenges to the agency's evaluation of RSI's proposal. Navarro argues that the agency unreasonably failed to consider the fact that one of RSI's subcontractors was recently involved in a corporate transaction and how the transaction will affect RSI's performance. Supp. Protest at 2-9. Navarro also argues that the agency failed to recognize that RSI's low labor rates demonstrated risk in RSI's technical approach. Supp. Protest at 38-40; Protest at 23-25. Additionally, Navarro argues that RSI's teaming approach and past performance references were undeserving of their assigned ratings for a litany of reasons. Supp. Protest at 26-38. As to the source selection decision, Navarro argues that the agency unreasonably valued aspects of RSI's proposal, and improperly found RSI's proposal to offer the best

technical approach. We dismiss these challenges because Navarro is not an interested party to raise them.

Under our Bid Protest Regulations, a protester must be an interested party to pursue a protest before our Office. 4 C.F.R. § 21.1. An interested party is an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. § 21.0(a)(1). A protester is not an interested party if it would not be next in line for award if its protest were sustained. *Vertical Jobs, Inc.*, B-415891.2, B-415891.4, Apr. 19, 2018, 2018 CPD ¶ 147 at 8.

We find that Navarro is not an interested party to challenge RSI's evaluation or the source selection decision because it would not be in line for award in the event that we sustained any of these allegations. The record shows that the SSA affirmatively determined that Navarro offered the third-best proposal. AR, Tab B.2, SSDD at 18 ("Navarro would be ranked third overall considering the non-price and price factors."). Navarro did not raise any factually sufficient challenges to the second-ranked offeror's evaluation.<sup>7</sup> See Protest at 13-15. Consequently, even if we found that any of Navarro's challenges to RSI's proposal or to the SSA's conclusions that RSI's proposal represented the best value, the second-ranked offeror, rather than Navarro, would be in line for award. Accordingly, we dismiss these challenges.

The protest is denied.

Thomas H. Armstrong  
General Counsel

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<sup>7</sup> In its protest, Navarro made a general allegation that the agency failed to account for the technical superiority of its proposal because it assigned the same ratings to Navarro, RSI, and the second-ranked offeror. Protest at 13-14. Navarro also made another general allegation that the agency unequally evaluated its proposal because it lowered the evaluation standard for RSI and the second-ranked offeror. *Id.* at 14-15. Neither allegation provides a valid basis of protest because they make speculative challenges to the evaluation, and lack any factual support showing what features of the second-ranked offeror's proposal were evaluated unreasonably or unequally. See *Key Book Service, Inc.*, B-226775, Apr. 29, 1987, 87-1 CPD ¶ 454 at 2 (allegation lacking any evidentiary support is speculative and does not provide a valid basis of protest); *CAMRIS Int'l, Inc.*, B-416561, Aug. 14, 2018, 2018 CPD ¶ 285 at 3 ("Unsupported assertions that are mere speculation on the part of protester do not provide an adequate basis of protest."). Accordingly, we dismiss these challenges because they lack any factual support. 4 C.F.R. § 21.1(c)(4), 21.5(f); *CAMRIS, Int'l, Inc.*, *supra* (speculative challenges are factually insufficient and subject to dismissal).