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Decision

Matter of: Guidehouse LLP

File: B-419336; B-419336.3; B-419336.5

Date: January 21, 2021

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DIGEST

1. Protest challenging agency's evaluation of the protester's and awardee's quotations under the non-price factors is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement law and regulation.
 2. Protest challenging agency's price evaluation, including the conclusion that the awardee's higher price was reasonable, is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement law and regulation.
 3. Protest challenging the agency's best-value tradeoff decision is denied where the agency documented its basis for selecting a higher-priced, technically superior quotation and where the underlying evaluation was reasonable.
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DECISION

Guidehouse LLP of McLean, Virginia, protests the establishment of a blanket purchase agreement (BPA) with Grant Thornton Public Sector LLC of Arlington, Virginia, by the Department of Homeland Security, Transportation Security Administration (TSA), under request for quotations (RFQ) No. 70T04020RQCAP8003 for program analysis and strategic support services. Guidehouse protests various aspects of the agency's evaluation and source selection decision.

We deny the protest.

BACKGROUND

On May 12, 2020, pursuant to Federal Acquisition Regulation (FAR) subpart 8.4, the agency issued the RFQ to contractors holding certain categories of General Services Administration (GSA) Federal Supply Schedule (FSS) contracts.¹ RFQ at 244.² The RFQ sought a contractor to provide program analysis and strategic support (PASS) services. The RFQ explained that the PASS requirement is focused on “identifying and pursuing available technological capabilities that TSA can apply to the TSA’s operational support environment” and “improv[ing] the efficacy of TSA programs and projects.” *Id.* The RFQ further explained that the PASS requirement is distinct from other program and acquisition management services, and requires “a fundamental understanding of TSA’s technologies, projects, programs, practices, policies, and procedures, and the ability to respond promptly to challenging and evolving requirements.” *Id.*

The RFQ contemplated the establishment of a single-award BPA under which fixed-price, time-and-materials, or hybrid task orders would be issued. RFQ at 244. The BPA would be performed over a 1-year base period and four 1-year option periods, and would have a total estimated value of \$350 million. *Id.* at 245.

The RFQ established a two-phase process; only phase 2 is relevant to this protest.³ The RFQ provided for award on a best-value tradeoff basis considering only phase 2, in

¹ Specifically, the RFQ was issued to contractors with professional services schedule 00CORP contracts for mission oriented business integrated services with special item numbers 874-1 (integrated consulting services), 874-7 (integrated business program support services), 871-1 (strategic planning for technology programs/activities), 871-2 (concept development and requirements analysis), or 871-6 (acquisition and life cycle management), and to contractors with consolidated multiple award schedule contracts for business administrative services under North American Industry Classification System codes 541611, 541715, or 541330ENG. Agency Report (AR), Tab 4, Conformed RFQ, at 244.

² The agency amended the RFQ twice. Citations to the RFQ are to the conformed solicitation provided by the agency at Tab 4 of the agency report. Citations to pages in the record, including the RFQ, are to the Bates-numbered pages provided by the agency.

³ The RFQ specifically established that “Phase 1 evaluations and the advisory [notice] will have no impact on the final evaluation and award decision in Phase 2.” RFQ at 303. In phase 1, the agency would consider two evaluation factors of equal importance-- a sample Performance Work Statement (PWS), and prior experience--and provide vendors with an advisory notice that would inform them of their likelihood of award. The

which the evaluation was based on five evaluation factors, listed in descending order of importance: management approach, technical approach, prior experience, socio-economic considerations, and price. The RFQ further provided that the four non-price factors, combined, were significantly more important than price, and cautioned vendors that award would not necessarily be made to the lowest-priced vendor. RFQ at 310-311.

For each of the four non-price factors, the RFQ provided that the agency would assign a confidence rating and that the evaluation “will necessarily entail the subjective and professional judgment of the government evaluators.” RFQ at 310. The first three non-price factors would be evaluated based on an oral presentation and a written slide deck of up to 50 slides.⁴ *Id.* at 304. The fourth non-price factor and price would be evaluated based on a separate written submission. *Id.*

Under the management approach factor, the RFQ provided that the agency would evaluate, among other things, “the extent to which the [vendor’s] management plan clearly demonstrates the [vendor’s] ability to provide program and project management on time and with high quality.” RFQ at 311.

Under the technical approach factor, the RFQ required vendors to address three technical scenarios⁵ and provided that the agency would evaluate “the extent to which the [vendor] provided information that clearly and concisely identified strategies, processes, and methodologies to successfully meet the scope of services as they relate to the technical scenarios.” RFQ at 303-305, 311. The RFQ also provided that “the

RFQ noted that the purpose of the advisory notice was to minimize quotation development costs, and that vendors could elect to continue to phase 2 regardless of the advice received in the advisory notice. *Id.* at 301-303. On or before May 26, the agency received phase 1 quotations from 11 vendors. AR, Tab 24, Business Clearance Memorandum, Sept. 23, 2020, at 661.

⁴ The RFQ provided that the oral presentation would total approximately three-and-a-half hours and include the presentation of the slides, caucus and presentation of an on-the-spot technical scenario, and caucus and answers to questions posed by the agency. RFQ at 306. The RFQ also provided that “[t]he slide deck for the oral presentation represents the official written submission for Volume II, and must contain all information to be covered in the oral presentation.” *Id.* at 305.

⁵ Two scenarios were provided in the RFQ and a third was to be provided during the oral presentation for an on-the-spot response. RFQ at 307-308. Of relevance here, the first scenario required vendors to address and respond to a 1-year initiative, in light of the COVID-19 pandemic’s “long-term implications on the future of the airport checkpoint,” to explore how airport checkpoints could be “more contactless, streamlined, or remote in order to safeguard passengers, contractors, and TSA employees.” *Id.* at 307.

response to th[e first] technical scenario will form the basis for the price evaluation,” but vendors were not to include any pricing in the technical response. *Id.* at 307-308.

With regard to price, the RFQ instructed vendors to complete an attachment to the RFQ to include a completed pricing table for all labor categories, a price quotation based on the vendor’s sample scope of work for the first technical scenario, and a crosswalk of the quoted labor categories to the vendor’s GSA schedule rates.⁶ RFQ at 310. The RFQ provided that the agency would calculate a total evaluated price based on the vendor’s quotation for the first technical scenario, and evaluate the total evaluated price, labor escalation rates across option years, and the prices of individual labor categories. *Id.* at 312. The RFQ provided that the agency would evaluate quotations to determine fair and reasonable pricing, and “may determine that a proposal is unacceptable if any prices appear unreasonably high, low, or unbalanced.” *Id.* The RFQ specified that “[t]he government reserves the right to utilize any of the price analysis techniques prescribed below to determine fair and reasonable pricing,” including comparison of quoted prices, historical pricing, competitive published price lists, and an independent government cost estimate (IGCE). *Id.* The RFQ further provided that the agency would compare the vendor’s quoted rates with those established in the vendor’s GSA schedule,⁷ and ensure that in a submitted crosswalk, “the GSA schedule labor categories are comparable to the qualifications in [an a]ttachment” to the RFQ. *Id.*

On or before July 24, the agency received phase 2 quotations from four vendors, including Guidehouse and Grant Thornton. Oral presentations were held from July 27 to July 30. The technical evaluation team (TET) assessed quotations under the first three non-price factors, while the price evaluation team (PET) assessed quotations under the fourth non-price factor and price. AR, Tab 16, Source Selection Authority (SSA) Decision Memorandum, Sept. 23, 2020, at 559. The agency evaluated the quotations as follows:

⁶ The attachment to the RFQ included 9 labor categories: two analysts, two consultants, one manager, one director, and three subject matter experts. AR, Tab 22, RFQ Attachment 2, at 650. Vendors could propose additional labor categories, with justification, and the agency would have the discretion to incorporate those additional labor categories. RFQ at 310. The RFQ further instructed that “the labor categories and hours must match the response to [the first] technical scenario” and that the price quotation “must identify the specific labor categories, rates, and hours to develop a total [fixed price] for the work.” *Id.*

⁷ The RFQ also encouraged vendors to provide price discounts from their GSA schedule rates. *Id.*

	Guidehouse	Grant Thornton
Management Approach	High Confidence	High Confidence
Technical Approach	High Confidence	High Confidence
Prior Experience	Some Confidence	Some Confidence
Socio-Economic Considerations	Some Confidence	Some Confidence
Total Evaluated Price	\$535,814	\$1,653,118

AR, Tab 15, Tradeoff Analysis Report, Sept. 17, 2020, at 528.

Based on the evaluation reports from the TET and PET, as well as the tradeoff analysis and award recommendation, the SSA noted that Grant Thornton’s quotation presented “many notable benefits”⁸ and “a superior approach,” and represented the best overall value and lowest risk of unsuccessful performance to the agency. AR, Tab 16, SSA Decision Memorandum, at 561. Among the “numerous benefits that none of the other [vendors] provided,” Grant Thornton’s quotation “[s]pecifically highlighted strengths, demonstrated successes, differentiators, or combinations thereof, of each topic area through real-world applications and how they could be applied to PASS.” *Id.* at 560; see also AR, Tab 15, Tradeoff Analysis Report, at 528.

In comparing Guidehouse and Grant Thornton’s quotations, the SSA specifically noted that Grant Thornton was “technically superior” to Guidehouse under the first three non-price factors and “identical” under the fourth non-price factor. AR, Tab 16, SSA Decision Memorandum, at 560. With regard to price, the SSA noted that, “[a]lthough Grant Thornton’s total evaluated price is significantly higher than Guidehouse’s, it is notably lower than both the GSA rates and the IGCE and represents less performance risk to the government.” *Id.* The SSA also noted that “Grant Thornton did not underestimate the level of effort for their total evaluated price relative to the technical scenario 1 approach.” *Id.* The SSA concluded that “Grant Thornton’s quot[ation] represented a superior solution with multiple technical advantages and the least risk to the government” and, overall, “a better value to the government than Guidehouse.” *Id.*

Guidehouse was subsequently notified of the SSA’s source selection decision. This protest followed.

DISCUSSION

Guidehouse challenges many aspects of the agency’s source selection decision, including, but not limited to: the agency’s evaluation under three of the non-price

⁸ A “benefit” was defined as “an element of the quote [that] exceeds a requirement of the RFQ in a beneficial way to the government.” A “risk” was defined as “a quote element that has the potential to cause a disruption of schedule, an increase in price, or a degradation of performance.” AR, Tab 3, Quote Evaluation Plan, July 20, 2020, at 242.

factors; the agency's price evaluation; and the best-value tradeoff decision. In its various protest submissions, Guidehouse has raised arguments that are in addition to, or variations of, those specifically discussed below. While we do not specifically address all of Guidehouse's arguments, we have considered all of them and find that they afford no basis on which to sustain the protest.

Evaluation of Non-Price Factors

Guidehouse presents multiple allegations regarding the agency's evaluation of both Guidehouse's and Grant Thornton's quotations under three of the non-price factors, including management approach and technical approach. As discussed in the representative examples below, we find no basis to sustain Guidehouse's protest.

Where, as here, a procurement is conducted pursuant to FAR subpart 8.4, our Office will not reevaluate quotations, nor substitute our judgment for that of the agency; rather, we will review the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. See, e.g., *VariQ Corp.*, B-409114 *et al.*, Jan. 27, 2014, 2014 CPD ¶ 58 at 8. Further, a protester's disagreement with a procuring agency's evaluation judgments, without more, does not establish that the evaluation was unreasonable. *DEI Consulting*, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2.

Evaluation of Guidehouse's Quotation

Guidehouse argues that the agency unreasonably assessed various risks and failed to identify various benefits in its quotation. For example, Guidehouse argues that the agency unreasonably assessed a risk for its approach to one of the technical scenarios under the technical approach factor, which was referenced as a discriminator in the source selection decision. Among its many points of disagreement, Guidehouse contends that the risk was based on an unstated evaluation criterion and "a fundamentally erroneous interpretation of Guidehouse's quot[ation]." Protest at 11; see *also id.* at 10-13; Comments and Second Supp. Protest at 39-42.

Under the technical approach factor, for the first technical scenario, the RFQ described an initiative to be performed over a 1-year period, in light of the COVID-19 pandemic's "long-term implications on the future of the airport checkpoint," to explore how airport checkpoints could be "more contactless, streamlined, or remote in order to safeguard passengers, contractors, and TSA employees." RFQ at 307. Vendors were required to "[d]escribe how [they] would go about planning for the current and anticipated future requirements under this initiative, addressing how the PWS would be developed, staffing the requirement, preparing appropriate performance metrics, [and] identifying stakeholders and adequate expertise." *Id.* The RFQ provided that the agency would evaluate "the extent to which the [vendor] provided information that clearly and concisely identified strategies, processes, and methodologies to successfully meet the scope of services as they relate to the technical scenarios." *Id.* at 303-305, 311.

In evaluating Guidehouse's quotation under the technical approach factor, the TET assigned a "high confidence" rating and assessed four benefits and one risk. For this technical scenario, Guidehouse proposed staffing of 9 labor categories across a total of 6,809 hours, which the TET translated into approximately 3.5 standard full-time equivalents (FTEs). AR, Tab 8B, Guidehouse Quotation Volume II Part B, July 24, 2020, at 350; AR, Tab 12, TET Consensus Report for Guidehouse, at 485. The TET found that "[t]his estimate appears low relative to the level of effort associated with the approach for [this] technical scenario." AR, Tab 12, TET Consensus Report for Guidehouse, at 485. In this regard, the agency explains that, rather than using a set level of effort, it considered each vendor's approach, consistent with the RFQ--here, the agency "evaluated Guidehouse's proposed actions to perform [this s]cenario [] against its own proposed hours to complete those actions, and found the hours lacking when considering the level of effort proposed." Memorandum of Law (MOL) at 5.

The TET was particularly concerned about Guidehouse's approach to the second month of performance, in which Guidehouse proposed to conduct data collection and "direct stakeholder engagement," and the TET noted that "researching and collecting such direct interaction data . . . is labor intensive." AR, Tab 12, TET Consensus Report for Guidehouse, at 485. The TET was also concerned that the proposed staffing may not be sufficient to successfully complete all of Guidehouse's proposed efforts for the other 11 months for what Guidehouse identified as a total of 20 deliverables. *Id.*

In the TET's view, "[b]ased on these aspects, the low FTE estimate is a risk that has the potential to cause a disruption of schedule, an increase in price, or a degradation of performance by not providing enough resources to successfully perform the full scope of work." AR, Tab 12, TET Consensus Report for Guidehouse, at 485. Ultimately, the TET concluded:

Overall, [Guidehouse] demonstrated superior understanding of the requirement in technical scenarios 1 and 2, even though the FTE estimate in technical scenario 1 did not necessarily align with that approach. . . . [Guidehouse] included all nine labor categories in its FTE estimate for technical scenario 1, but the number of hours appear to be underestimated, and more hours may be required to better align with the approach outlined. However, the magnitude of the underestimate is not significant, and as a fixed[-]price task, risk to the government is minimal.

Id. at 486. This risk was further noted in the tradeoff analysis and source selection decision. AR, Tab 15, Tradeoff Analysis Report, at 531 (considering Guidehouse's "innovative but under-resourced model"); AR, Tab 16, SSA Decision Memorandum, at 561 (concurring with the TET's assessment of the benefits and risks).

On this record, we find no basis to question the agency's assessment of this risk in Guidehouse's quotation. We disagree with Guidehouse's belief that any unstated evaluation criterion was used; indeed, Guidehouse acknowledges that the RFQ contemplated that vendors "were free to propose unique technical approaches with their

own level of effort and labor mix.” Comments and Second Supp. Protest at 13 n.5. Further, we agree with the agency’s view that the vendor’s “proposed labor categories and hours are inherently a part of th[e] approach” contemplated by the RFQ, and “the extent to which the methodologies presented can successfully meet the scope of service was properly questioned by the TET in light of the low labor hour estimate.” MOL at 4. While Guidehouse continues to argue that the agency’s evaluation failed to take into account various “efficiencies” in its approach, Comments and Second Supp. Protest at 40, it has failed to establish that the agency’s judgment was improper or unreasonable.⁹ Accordingly, this protest ground is denied.

Evaluation of Grant Thornton’s Quotation

Guidehouse challenges various aspects of the agency’s evaluation of Grant Thornton’s quotation, primarily in conjunction with various disparate treatment allegations. While these vendors received equal ratings under all of the non-price factors, Guidehouse challenges the agency’s assessment of various benefits in Grant Thornton’s quotation, but not in Guidehouse’s quotation, “for areas in which their quot[at]ions featured the exact same benefits.” Comments and Second Supp. Protest at 24.

In conducting procurements, agencies may not engage in conduct that amounts to unfair or disparate treatment of competing vendors. *Arc Aspicio, LLC et al.*, B-412612 *et al.*, Apr. 11, 2016, 2016 CPD ¶ 117 at 13. It is a fundamental principle of federal procurement law that a contracting agency must treat all vendors equally and evaluate their quotations evenhandedly against the solicitation’s requirements and evaluation criteria. See *Sumaria Sys., Inc.; COLSA Corp.*, B-412961, B-412961.2, July 21, 2016,

⁹ With regard to this and other allegations, Guidehouse also claims that the agency “overlooked information [in] Guidehouse’s oral presentation” and cites to various pieces of information from its oral presentation. Comments and Second Supp. Protest at 40. In this regard, the agency produced copies of the recordings of the oral presentations to only the protester and intervenor, explaining that “TSA anticipates that if [the] protester or intervenor wish to refer to the information therein, the party making the reference will provide GAO and the parties a transcript for reference.” AR, Document Index (Final) at 3.

However, neither Guidehouse nor the other parties provided a transcript of Guidehouse’s oral presentation for the record. Nonetheless, we note that the record--which included the written slide deck for the oral presentation, which the RFQ noted “represents the official written submission for Volume II, and must contain all information to be covered in the oral presentation,” RFQ at 305--was sufficient to permit us to assess the reasonableness of the agency’s conclusions. We also note that, for procurements conducted pursuant to FAR subpart 8.4 that require a statement of work, such as this one, section 8.405-2(e) of the FAR designates limited documentation requirements. *Arrington Dixon & Assocs., Inc.*, B-409981, B-409981.2, Oct. 3, 2014, 2014 CPD ¶ 284 at 8. In a FAR subpart 8.4 procurement, an agency’s evaluation judgments must be documented in sufficient detail to show that they are reasonable. *Id.*

2016 CPD ¶ 188 at 10. Where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in ratings did not stem from differences between the quotations. *Camber Corp.*, B-413505, Nov. 10, 2016, 2016 CPD ¶ 350 at 8.

Here, we find that the protester has not met this burden. For example, Guidehouse argues that it also should have received a benefit for the “real-world application and success” of various aspects of its management approach, pointing to a benefit that was assessed in Grant Thornton’s quotation under this factor and identified as a discriminator in the source selection decision. Comments and Second Supp. Protest at 24-25.

Under the management factor, the RFQ provided that the agency would evaluate “the extent to which the [vendor’s] management plan clearly demonstrates the [vendor’s] ability to provide program and project management on time and with high quality.” RFQ at 311. The agency explains that Grant Thornton’s proposed task tracking and controlling methodology included the use of a “performance management [REDACTED]”; in addition to satisfying the RFQ’s requirements, Grant Thornton’s quotation “specifically described how this process was used on a contract with Customs and Border Protection, providing both a summary of the use of the [REDACTED] on that contract and an example of the [REDACTED] itself so TSA could see how it would be used under the present BPA task orders.” Supp. MOL at 17, *citing* AR, Tab 10A, Grant Thornton Quotation Volume II Part A, July 24, 2020, at 406. The TET concluded that this aspect of Grant Thornton’s quotation “exceeds a requirement of the RFQ and benefits the government through demonstration of real-world application of the [vendor’s] management approaches and where they have been and can be[] successfully applied to the PASS requirements.” AR, Tab 13, TET Consensus Report for Grant Thornton, Sept. 1, 2020, at 493. This benefit was further noted in the tradeoff analysis and source selection decision. AR, Tab 15, Tradeoff Analysis Report, at 528; AR, Tab 16, SSA Decision Memorandum, at 561.

The agency further explains, while pointing to several examples in Guidehouse’s quotation, that: “In contrast, although Guidehouse included real-world examples of their methodologies, it did not provide nearly the level of detail and comprehensive explanation as to how those examples would apply to its performance on the PASS contract.” Supp. MOL at 17. We note that an agency is not required to document every single aspect of its evaluation or explain why a quotation did not receive a strength for a particular feature. *See, e.g., 22nd Century Techs., Inc.*, B-417336, B-417336.2, May 24, 2019, 2019 CPD ¶ 198 at 5; *InnovaSystems Int’l, LLC*, B-417215 *et al.*, Apr. 3, 2019, 2019 CPD ¶ 159 at 10. While Guidehouse disagrees with the agency’s evaluation, it has not demonstrated that this aspect of its quotation merited a benefit, nor that the assessment of the benefit in Grant Thornton’s quotation was unreasonable or reflects disparate treatment.

As another example, in its first supplemental protest (filed after its debriefing, and prior to receipt of the agency report), Guidehouse argues that the agency “relaxed a

requirement” under the management approach factor in assessing a benefit in Grant Thornton’s quotation. First Supp. Protest at 1. The RFQ included security requirements regarding access to TSA facilities and information systems, including requiring contractor employees to be cleared by TSA through, among other things, first passing an “Enter on Duty” (EOD) preliminary review. See RFQ at 273. Guidehouse alleged that Grant Thornton failed to comply with this requirement and that the agency’s “relaxation of this requirement meant that Grant Thornton was able to propose a solution which relied on non-EOD[-]cleared personnel, thereby enabling faster delivery of services to the agency”; and that, “[h]ad Guidehouse known that the agency would relax this requirement, it could have likewise modified its management approach to provide quicker delivery of services to the agency during the transition relying on non-EOD[-]cleared personnel.” First Supp. Protest at 2.

In its second supplemental protest (filed after receipt of the agency report), Guidehouse abandoned the argument that the agency “relaxed a requirement” for the awardee. Instead, Guidehouse claims that the protester, like the awardee, should have received a benefit for proposing cleared personnel. *Compare* First Supp. Protest at 1-2 *with* MOL at 24-25 *with* Comments and Second Supp. Protest at 28-29; *see also* Protest at 28.

We will not consider abandoned arguments. *IntelliDyne, LLC, B-409107 et al.*, Jan. 16, 2014, 2014 CPD ¶ 34 at 3 n.3. To the extent Guidehouse claims that it, too, should have received a benefit here, the agency has explained that it reasonably concluded that, while both vendors offered cleared personnel, Guidehouse’s quotation did so in a manner that merely satisfied the requirements while Grant Thornton’s quotation exceeded the requirements. Supp. MOL at 19; Protester’s Supp. Comments at 16; *see also* AR, Tab 13, TET Consensus Report for Grant Thornton, at 493. In sum, Guidehouse’s disagreement with the agency’s technical evaluation of Grant Thornton’s quotation does not provide a basis to sustain the protest.

Price Evaluation

Guidehouse challenges the agency’s price evaluation primarily by asserting that “there is no possible way that the agency could conclude that Grant Thornton’s price was reasonable given the significant disparity in prices.” Protest at 28. Guidehouse also challenges the agency’s evaluation of the labor rates and the awardee’s labor categories. Comments and Second Supp. Protest at 3-10, 15-20. As discussed in the representative examples below, we find no basis to sustain Guidehouse’s protest.

The manner and depth of an agency’s price analysis is a matter committed to the discretion of the agency, which we will not disturb provided that it is reasonable and consistent with the solicitation’s evaluation criteria and applicable procurement statutes and regulations. *See, e.g., 22nd Century Techs., Inc., B-418029 et al.*, Dec. 26, 2019, 2020 CPD ¶ 14 at 15.

Price Reasonableness

First, Guidehouse argues that the agency's use of a price comparison to evaluate total evaluated price was flawed because the average price of the quotations received "was significantly skewed by the proposed price of an extreme outlier"--that is, the inclusion of a fourth vendor that quoted a higher price than the awardee. Comments and Second Supp. Protest at 11; see *also* Protester's Supp. Comments at 12.

An agency's concern in making a price reasonableness determination is whether the offered prices are too high, rather than too low. *Vital Link, Inc.*, B-405123, Aug. 26, 2011, 2011 CPD ¶ 233 at 6. Here, the RFQ provided that the agency would calculate and evaluate a total evaluated price based on the vendor's quotation for the first technical scenario. RFQ at 312. The RFQ provided that the agency would evaluate quotations to determine fair and reasonable pricing, and "may determine that a proposal is unacceptable if any prices appear unreasonably high, low, or unbalanced." *Id.* The RFQ specified that "[t]he government reserves the right to utilize any of the price analysis techniques prescribed below to determine fair and reasonable pricing," including comparison of quoted prices, historical pricing, competitive published price lists, and an IGCE.¹⁰ *Id.*

The record shows that the PET calculated the mean of the four quotations and found that Grant Thornton's total evaluated price was below the mean. AR, Tab 14, Price Report, Sept. 17, 2020, at 516. The PET also noted that, because the vendors "all proposed different approaches in their response to [the first] technical scenario, [] the hourly rate represents a good point of comparison for quantifying the value of the work relative to the level of effort." *Id.* The PET analyzed underlying information related to Grant Thornton's total evaluated price, including the quoted labor rates and hours. *Id.* at 513-516. The PET concluded that Grant Thornton's total evaluated price, as well as those of the other vendors, was fair and reasonable. *Id.* at 519.

On this record, the agency's price reasonableness evaluation, and its conclusion that Grant Thornton's price was reasonable, is unobjectionable. While Guidehouse continues to argue that the quotations represent "skewed and uninformative data," Comments and Second Supp. Protest at 11, it has not demonstrated more than disagreement with the evaluation. For example, Guidehouse points out that the agency, in the tradeoff analysis report, thought one of the quotations had "drastically overestimat[ed]" the level of effort required. *Id.* at 13, *citing* AR, Tab 15, Tradeoff

¹⁰ We note that the FAR includes a non-exhaustive list of permitted price analysis techniques that ensure that the agency pays a fair and reasonable price. FAR 15.404-1. One of the techniques permitted by the FAR is a "[c]omparison of proposed prices received in response to the solicitation." FAR 15.404-1(b)(2)(i) (adding also that, "[n]ormally, adequate price competition establishes a fair and reasonable price"). While the provisions of FAR part 15 do not directly apply to a procurement conducted under FAR subpart 8.4, our Office has advised that we will analyze protests of procurements like the one here by using the standards applicable to negotiated procurements as a guide. See, e.g., *Digital Sys. Grp., Inc.*, B-286931, B-286931.2, Mar. 7, 2001, 2001 CPD ¶ 50 at 5-6.

Analysis Report, at 545. In response, the agency explains that this other vendor's quotation "was evaluated in the same manner as the other quot[at]ions] and both its labor rates and price were determined to be fair and reasonable," and there was nothing to preclude the agency from using the price comparison methodology or to require the agency to exclude that vendor's quotation. Supp. MOL at 8-9.

Guidehouse claims that the agency "minimize[d] the weight of differences" between the vendors' total evaluated prices by pointing out that the agency, in the tradeoff analysis report, noted that "the comparison of the [total evaluated price] is not the best point of comparison for price, as each [vendor] provided a different approach, varying significantly in level of effort (and as a result, price)." Comments and Second Supp. Protest at 13, *citing* AR, Tab 15, Tradeoff Analysis Report, at 533. We find this argument unpersuasive. The quoted statement was made in the context of a tradeoff analysis that, in our view, reflects the agency's acknowledgment that it could not--and did not--rely solely on a mechanical comparison of total evaluated prices. As part of the obligation to conduct a best-value tradeoff analysis, the agency instead considered multiple aspects of the competing quotations and their differing approaches. The protester also acknowledges that, "[a]dmittedly, the RFQ provided for some variability among offerors by asking offerors to explain how they would address [the first] technical scenario" and "required contractors to describe how they would 'go about planning for the current and anticipated future requirements under this initiative,' confirming that the requirements were fluid and not concretized." Protest at 26-27.

Ultimately, here, the RFQ expressly provided for the agency to exercise its discretion in selecting a method for analyzing price reasonableness--including, specifically, "comparison of quoted prices received in response to the RFQ." RFQ at 312. The evaluation here, as discussed above, appears consistent with the terms of the solicitation and applicable procurement law and regulation. This protest ground is denied.

Labor Rates

Second, Guidehouse argues that the agency's evaluation of Guidehouse's and Grant Thornton's labor rates "deviated from the solicitation's requirements" and was "mechanical and irrational." Comments and Second Supp. Protest at 15-20, 22-24; Protester's Supp. Comments at 12-13. Specifically, the protester argues that "using GSA schedule rates as a benchmark for reasonableness without further analysis was unreasonable." Comments and Second Supp. Protest at 17 n.10. In addition, the protester argues that the agency "failed to meaningfully evaluate individual labor rates" when the agency "analyzed quoters' blended rates and whether, on average, rates fell above or below the mean or IGCE." *Id.* at 15.

As noted above, the RFQ provided that the agency would evaluate the total evaluated price, labor escalation rates across option years, and the prices of individual labor categories. RFQ at 312. The RFQ specified that "[t]he government reserves the right to utilize any of the price analysis techniques prescribed below to determine fair and reasonable pricing," including comparison of quoted prices to each other, historical

pricing, competitive published price lists, and an IGCE. *Id.* The RFQ also provided that the agency would compare the vendor's quoted rates with those established in the vendor's GSA schedule. *Id.*

The record shows that the PET analyzed Grant Thornton's quoted labor rates and found that all of them were "significantly discounted" from the rates in Grant Thornton's GSA schedule contract and either "comparable to or lower than" the IGCE for the labor rates.¹¹ AR, Tab 14, Price Report, at 514-516; MOL at 16. The PET noted that, "[a]s the posted GSA rates have already been determined to be fair and reasonable, the reduced quoted rates for PASS can also be determined to be fair and reasonable." AR, Tab 14, Price Report, at 514. The PET also analyzed "the standard deviation for each labor rate across all four vendors" including comparing "one above and below the mean." *Id.* at 515. While the PET acknowledged "some risk" associated with Grant Thornton's rates being higher than the mean, in its view, "the variation in the rates from the mean is not excessive, the rates are also notably lower than the GSA and IGCE rates, and therefore the labor rates are determined to be fair and reasonable."¹² *Id.* at 515-516.

The record also shows that the PET applied the same methodology to evaluating Guidehouse's quotation and also concluded that Guidehouse's quoted labor rates were fair and reasonable. AR, Tab 14, Price Report, at 517-519. The PET found that Guidehouse's quoted labor rates also offered "substantial discounts" compared to Guidehouse's GSA schedule contract, and further noted that Guidehouse's rates were lower than both the IGCE and the mean. *Id.* at 517-518. The PET also noted that, "[a]s the posted GSA rates have already been determined to be fair and reasonable, the reduced quoted rates for PASS can also be determined to be fair and reasonable." *Id.* at 517.

On this record, we find no basis to object to the agency's evaluation. As noted above, the RFQ advised that the agency would evaluate "the prices of individual labor categories" and "compare the quoted rates against the rates established in the [vendor's] GSA schedule." RFQ at 312. Consistent with the terms of the solicitation and applicable procurement law and regulation, the agency's evaluation included comparison of the vendors' quoted labor rates to their GSA schedule contract rates. See FAR 8.404(d) ("GSA has already determined the prices . . . and rates . . . under

¹¹ The IGCE for the labor rates was prepared using "an average of rates from past and current TSA contracts with similar requirements to PASS" and "based upon comparable qualifications to the 9 established labor categories for this requirement." AR, Tab 14, Price Report, at 506.

¹² The PET also noted that Grant Thornton's quotation included additional volume discount terms on BPA orders based on the total order value, such that, "[w]hile there are no guaranteed savings over the life of the BPA, any orders placed over the \$[REDACTED] [million] threshold will result in additional savings to the government depending on the size of the order." AR, Tab 14, Price Report, at 514.

schedule contract to be fair and reasonable); *see also Verizon Fed., Inc.*, B-293527, Mar. 26, 2004, 2004 CPD ¶ 186 at 6 (“In awarding the FSS contracts upon which the quotations were based, the [GSA] determined that the labor rates were fair and reasonable” and, “[i]n light of the fact that [the awardee] quoted labor rates that were approximately 25 percent lower than its FSS contract labor rates, we see no basis to conclude that [the awardee’s] price was unreasonable”).

Moreover, contrary to Guidehouse’s contention that the agency acted “without further analysis,” Comments and Second Supp. Protest at 17 n.10, the record shows that the agency’s evaluation also included comparison of the vendors’ quoted labor rates to the IGCE and to a mean and standard deviation calculated based on all of the quotations. Guidehouse’s view that the mean labor rate was “a largely unhelpful metric” reflects its disagreement with the agency’s methodology. *Id.* at 23. While Guidehouse continues to argue the agency “failed to account for individual rates, differing labor mixes between quot[at]ions], and Grant Thornton’s underqualified [labor categories],” Protester’s Supp. Comments at 11, the record supports the agency’s view that it examined each of the proposed labor rates individually and that “the price report clearly shows the individualized evaluation that was done for both [vendors].” Supp. MOL at 15; *see also* AR, Tab 14, Price Report, at 514-519. This protest ground is denied.

Labor Categories

Guidehouse next argues that the awardee’s quoted GSA schedule labor categories “are not comparable to the solicitation’s requirements”--and, therefore, that the awardee should have been ineligible for award--based primarily on a numerical comparison of minimum years of experience for those labor categories. Comments and Second Supp. Protest at 3-10; Protester’s Supp. Comments at 3-8. Under the price evaluation factor, the RFQ provided that the agency would evaluate quotations to ensure that in a submitted crosswalk, “the GSA schedule labor categories are comparable to the qualifications in [an a]ttachment” to the RFQ.¹³ RFQ at 312. The qualifications included

¹³ The attachment to the RFQ included 9 labor categories: two analysts, two consultants, one manager, one director, and three subject matter experts. AR, Tab 22, RFQ Attachment 2, at 650. Guidehouse primarily challenges Grant Thornton’s quoted labor categories for the three subject matter experts, for which Grant Thornton quoted labor categories with “seven or more years of progressively responsible experience” and for which the RFQ listed, respectively, “12+,” “15+,” and “20+ years of demonstrated knowledge and experience.” *Id.*; AR, Tab 21, Pages of Grant Thornton Quotation Volume III, at 648. In addition to years of experience and education, the RFQ required each subject matter expert to be a “recognized leader in his or her field” whose “[r]esponsibilities include design, review, implementation, and analysis of discrete elements of a program,” and who “[p]rovides leadership, historical perspective, and guidance to policy development, authors final reports, makes presentations to high level managers/stakeholders, and contributes expertise to other program elements, as required.” AR, Tab 22, RFQ Attachment 2, at 650.

a narrative description of various duties and responsibilities, not just years of experience. AR, Tab 22, RFQ Attachment 2, at 650.

Non-FSS products and services may not be purchased using FSS procedures; instead, their purchase requires compliance with applicable procurement laws and regulations, including those requiring the use of competitive procedures. See FAR 8.402(f); *OMNIPLEX World Servs. Corp.*, B-291105, Nov. 6, 2002, 2002 CPD ¶ 199 at 4-5. An agency may place an order for services against a vendor's FSS contract only where the services are within the scope of the awardee's FSS contract.¹⁴ See *American Sec. Programs, Inc.*, B-402069, B-402069.2, Jan. 15, 2010, 2010 CPD ¶ 2 at 2.

The PET report notes that, in evaluating Grant Thornton's quotation, "[t]he PET reviewed the qualifications between the GSA schedule labor categories and the labor categories listed in the RFQ, and determined that they are comparable." AR, Tab 14, Price Report, at 514; see also *id.* at 513 (noting that Grant Thornton's quotation "contained no assumptions or exceptions"). The record shows that some of Grant Thornton's quoted labor categories had fewer years of minimum experience than those specified in the RFQ. See AR, Tab 21, Pages of Grant Thornton Quotation Volume III, at 648. The agency acknowledges this, and explains that "[t]he RFQ did not require strict adherence to each and every sub-requirement for each labor category; instead, the PET was required to determine whether the proposed labor categories are 'comparable' to those provided in the RFQ."¹⁵ Supp. MOL at 2-3.

Guidehouse's disagreement here relies primarily on our decision in *Grant Thornton, LLC*, B-416733, Nov. 29, 2018, 2018 CPD ¶ 411. That decision, sustaining a pre-award protest challenging the terms of a solicitation issued under FAR subpart 8.4 for the establishment of a BPA, is distinguishable from the present evaluation challenge. There, the protester argued that, "where the labor category in the solicitation states a

¹⁴ While this is typically a matter of technical acceptability, in this procurement, evaluation of the labor categories was included under the price evaluation factor. Regardless, our standard for review is the same: our Office will not reevaluate quotations, nor substitute our judgment for that of the agency; rather, we will review the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. See, e.g., *VariQ Corp.*, *supra*, at 8 (technical evaluation); *22nd Century Techs., Inc.*, B-418029 *et al.*, *supra*, at 4 (price evaluation).

¹⁵ The agency also points out that some of Guidehouse's quoted labor categories also "failed to meet the years of experience identified in the RFQ." Supp. MOL at 4, *citing* AR, Tab 9, Guidehouse Quotation Volume III, at 396. The agency explains that "the PET evaluated both Grant Thornton's and Guidehouse's labor categories, and determined both to be comparable to those stated in the RFQ, even though they both did not strictly match all of the stated experience and education levels." Supp. MOL at 8; see also AR, Tab 14, Price Report, at 517.

requirement for a minimum number of years of experience, a labor category on a vendor's FSS contract that identifies a 'minimum' of a lesser number of years of experience does not mean the vendor cannot quote employees with higher years of experience, and should be considered within the scope of the solicitation." *Id.* at 3-4.

Our Office agreed, and concluded that a requirement for vendors to quote labor categories from their FSS contracts that "align precisely" with the minimum years of experience in the RFQ was unduly restrictive of competition. We specifically noted that our decision was limited to the situation discussed there. *Id.* at 8 n.4 ("Our decision here does not address all scenarios which might cause an agency to reasonably question whether an FSS contract labor category is within the scope of a solicitation requirement. Rather, we conclude that the agency has not justified the inclusion of the challenged provision here.").

As noted in *Grant Thornton, LLC, supra*, "nothing within our decisions in [post-award protests] states that years of experience as set forth in the labor categories of a vendor's FSS contract must be viewed as a hard cap for purposes of assessing whether the labor category is within the scope of a solicitation."¹⁶ *Id.* at 7, citing *American Sys. Consulting, Inc.*, B-294644, Dec. 13, 2004, 2004 CPD ¶ 247 and *AllWorld Language Consultants, Inc.*, B-411481.3, Jan. 6, 2016, 2016 CPD ¶ 12. The standard noted in our previous decisions concerning evaluation challenges ("within the scope of"), as well as the terms of the RFQ here ("comparable to"), allow for a degree of agency discretion in determining whether a vendor's quoted labor categories meet the requirements of the solicitation. In our view, the agency's evaluation here is within the scope of that discretion. While Guidehouse contends that its protest "requires no mastery of complex mathematics to resolve," pointing again to the numerical comparison that "seven does not equal twenty" years of experience, Protester's Supp. Comments at 2, Guidehouse's disagreement with the agency's judgment does not establish an abuse of the agency's discretion or other basis for sustaining its protest.

In sum, the price evaluation, as discussed above, is consistent with the terms of the solicitation and applicable procurement law and regulation.¹⁷ We find no basis to

¹⁶ Moreover, as we noted in our decision denying a request for reconsideration of *Grant Thornton, LLC, supra*, our focus in an evaluation challenge like this one is "to ensure that a procuring agency is appropriately procuring products or services that are on the vendor's FSS contract." *Department of Defense--Recon.*, B-416733.2, Mar. 18, 2019, 2019 CPD ¶ 110 at 5. We also noted that, "[t]o the extent the number of years of experience required by the agency may exceed the floor for years of experience under a vendor's FSS contract, the vendor must nonetheless provide individuals that meet the government's requirements." *Id.* at 6.

¹⁷ In evaluating Guidehouse's price quotation, the PET also noted "some risk associated with both the low labor rates and total evaluated price due to the underestimated level of effort[.]" AR, Tab 14, Price Report, at 519. Guidehouse contends that the agency "unfairly assessed risk in Guidehouse's lower and realistic price." Comments and

disagree with the agency's assertion that it "reasonably conducted both a price reasonableness and a price realism evaluation and documented the results of those evaluations in the price report." Supp. MOL at 14 n.6. We note that the PET concluded that the four quotations "reflected the competitive environment" and each "contain[ed] labor rate pricing and a total evaluated price that is determined to be fair and reasonable." AR, Tab 14, Price Report, at 519; see also AR, Tab 24, Business Clearance Memorandum, at 662-667. The SSA also reviewed the price evaluation and concurred with the PET's evaluation. AR, Tab 16, SSA Decision Memorandum, at 561. These protest grounds are denied.

Best-Value Tradeoff Decision

Finally, Guidehouse contends that the agency's best-value decision was defective because it was based on alleged evaluation errors. Protest at 31; Comments and Second Supp. Protest at 49. Based on our review of the record, and as discussed above, we conclude that the agency's evaluation and source selection decision were reasonable and in accordance with the terms of the solicitation. Here, the record shows that the SSA provided a well-reasoned basis for a tradeoff that identified discriminators between the quotations and justified paying Grant Thornton's higher price. AR, Tab 16, SSA Decision Memorandum; see also AR, Tab 24, Business Clearance Memorandum. The record is consistent with the requirement that where, as here, a procurement conducted pursuant to FAR subpart 8.4 provides for award on a "best value" basis, it is the function of the SSA to perform a price/technical tradeoff, that is, to determine whether one quotation's technical superiority is worth its higher price. *InnovaTech, Inc.*, B-402415, Apr. 8, 2010, 2010 CPD ¶ 94 at 3, 6 n.8; *The MIL Corp.*, B-297508,

Second Supp. Protest at 20. Guidehouse further contends that the assessment of risk here was "based on a materially incomplete evaluation," reiterating other alleged errors in the technical evaluation and price evaluation. Protester's Supp. Comments at 14.

As discussed above, we find no basis to object to the technical evaluation or price evaluation. Moreover, we find no basis to object to the assessment of risk in Guidehouse's price quotation. As here, an agency may provide for a price realism analysis in a solicitation that contemplates the issuance of a BPA against the vendors' FSS contracts for the limited purpose of measuring vendors' understanding of the requirements or to assess the risk inherent in a vendor's quotation. See *OMNIPLEX World Servs. Corp.*, *supra*, at 9; *PHP Healthcare Corp.*, B-251933, May 13, 1993, 93-1 CPD ¶ 381 at 5. The nature and extent of such a price realism analysis ultimately are matters within the sound exercise of the agency's discretion. *Citywide Managing Servs. of Port Washington, Inc.*, B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 4-5. Guidehouse's continued disagreement with the agency's analysis and claim that its price was "realistic," Protester's Supp. Comments at 13--where the record reflects that the agency assessed a risk but did not conclude that Guidehouse's quotation was unrealistic--do not provide a basis on which to sustain its protest.

B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 13. Accordingly, this protest ground is also denied.

The protest is denied.

Thomas H. Armstrong
General Counsel