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Decision

Matter of: TekSynap Corporation

File: B-419464; B-419464.2

Date: March 19, 2021

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DIGEST

Protest is sustained where the contemporaneous record shows that the agency unreasonably evaluated the proposals under the technical/management factor, and there is a reasonable possibility that the protester was prejudiced by the agency's errors.

DECISION

TekSynap Corporation, a small business, of Reston, Virginia, protests the National Geospatial-Intelligence Agency's (NGA) award of a contract to Chenega Agile Real-Time Solutions, LLC (CARS), a small business, of Lorton, Virginia, pursuant to request for proposals (RFP) No. HM0476-20-R-0001, to provide various enterprise management information technology (IT) support services. TekSynap asserts that the agency failed to conduct meaningful discussions, unreasonably evaluated proposals under the technical/management evaluation and price factors, and made an unreasonable best-value determination.

We sustain the protest.

BACKGROUND

On March 9, 2020, the agency issued RFP No. HM0476-20-R-0001 (referred to as the Enterprise Management Services (EMS) procurement), contemplating the single award of an indefinite-delivery, indefinite-quantity (IDIQ) contract and the simultaneous award

of an initial task order (TO).¹ RFP at 1, 35, 124. The solicitation sought proposals for a full spectrum of IT services on multiple networks and security domains, including Intelligence Community cloud environments and desktop environments, at multiple locations worldwide for both existing and new facilities, in support of NGA's Geospatial-Intelligence mission. AR, Tab A.1.c, RFP attach. J.1, Performance Work Statement (PWS) at 5.

The solicitation provided that the source selection decision would be based on a best-value tradeoff, and established the following evaluation factors: technical/management,² past performance,³ security,⁴ and price.⁵ AR, Tab A.3.g, RFP amend. 2 at 28-29.⁶ The RFP identified the technical/management factor as the most important factor and provided that the non-price factors, when combined, are significantly more important than price. *Id.* at 30. Of relevance to this protest, the RFP provided that price proposals would be evaluated for completeness, reasonableness, and realism.⁷ *Id.*

¹ The RFP provided that the IDIQ contract will have an 8-year ordering period, and that TO No. 1 will have a 12-month base performance period and seven 12-month option periods. Agency Report (AR), Tab A.1.b, RFP at 124.

² The RFP established three subfactors under the technical/management factor (management plan, technical approach, and transition plan) and provided for the assignment of the following adjectival ratings: outstanding, good, acceptable, marginal, and unacceptable. RFP amend. 2 at 30-31. The adjectival ratings are derived from considering risk in conjunction with the proposal's assigned strengths, weaknesses, and deficiencies. *Id.*

³ With regard to the past performance evaluation, the solicitation provided that the agency would "consider[] each offeror's demonstrated recent and relevant record of performance in supplying services that are similar to the contract requirements," and would assign confidence ratings of: substantial confidence, satisfactory confidence, neutral confidence, limited confidence, or no confidence. *Id.* at 34-36.

⁴ With regard to security, the solicitation identified five subfactors, none of which are relevant to the protest allegations, and stated that proposals would be evaluated on a pass/fail basis under this factor. *Id.* at 36-39.

⁵ The solicitation provided that each offeror's total evaluated price (TEP) would be used in the best-value tradeoff analysis. *Id.* at 39. The TEP would be based on the proposed price of TO No. 1 for the 8-year period of performance including the 6-month extension of services. *Id.*

⁶ The RFP was amended four times. The agency did not provide a conformed solicitation so that all citations to the record are the appropriate amendment.

⁷ With regard to the price evaluation, the agency considered the following: internal control and business systems, fully burdened labor rates, service catalog price list (SCPL), and TO No. 1 price proposal. RFP amend. 2 at 38.

at 38. More specifically, the solicitation provided that in evaluating completeness, the agency would consider “the responsiveness of the offeror in providing price data for all [RFP] requirements” and cautioned that proposals omitting information from labor rates, service catalog pricing or the TO No. 1 price proposal will be assessed as incomplete. *Id.* at 38-39.

On or before April 27, five offerors submitted proposals, including TekSynap and CARS. AR, Tab F.1, Competitive Range Determination (CRD) at 3-4. In its evaluation of TekSynap’s initial price proposal, the agency’s price evaluation team (PET) identified numerous flaws, omissions, and failures to comply with the solicitation’s requirements. AR, Tab C.1.a., TekSynap Initial PET Report at 5-14.

Thereafter, the agency established a competitive range consisting of four proposals, including the protester’s, and opened discussions by sending multiple items for discussion (IFDs) to each offeror. See AR, Tab E.1.a, TekSynap Competitive Range Notification at 15.⁸ Specifically, the agency sent 13 IFDs to TekSynap related to the technical/management and price factors, directing TekSynap’s attention to the various flaws, omissions, and failures to comply with the solicitation requirements contained in its proposal. AR, Tab E.1.b, TekSynap IFDs. Consistent with its determination that TekSynap’s pricing was incomplete, the agency identified the areas where the agency found TekSynap’s price proposal was not complete and instructed TekSynap to revise its SCPL and the TO No. 1 price proposals. *Id.* at 8-11.

The agency also conducted discussions with the offerors in the competitive range and permitted offerors to submit questions. AR, Tab E.1.f, TekSynap Discussions Closed Notification. After concluding discussions, the agency requested final proposal revisions (FPRs).

On September 21, the offerors submitted their FPRs. TekSynap and CARS were evaluated as follows:

⁸ Citations to this document refer to the Adobe pdf page number.

| | CARS | | TekSynap | |
|---|---|--------------------------|---|--------------------------|
| Technical/Management | Outstanding | | Good | |
| Management Plan | Outstanding 2 Significant Strengths 7 Moderate Strengths 1 Slight Strength 2 Meets the Standard 1 Slight Weakness | | Good 2 Significant Strengths 5 Moderate Strengths 2 Slight Strengths 3 Meets the Standard 1 Slight Weakness | |
| Technical Approach | Good 1 Significant Strength 3 Moderate Strengths 8 Slight Strengths 3 Meets the Standard | | Good 2 Significant Strength 3 Moderate Strengths 1 Slight Strengths 8 Meets the Standard 1 Slight Weakness | |
| Transition Plan | Outstanding 1 Significant Strength | | Good 1 Moderate Strength | |
| Past Performance | Substantial Confidence | | Substantial Confidence | |
| Security | Pass | | Pass | |
| Price | | | | |
| Total Evaluate Price | \$180,202,773 | | \$182,662,587 | |
| Internal Controls and Business Systems | Compliant | | Compliant | |
| Fully Burdened Labor Rates | Complete | Reasonable and Realistic | Complete | Reasonable and Realistic |
| Service Catalog Price List | Complete | Reasonable | Incomplete | No Determination |
| TO No. 1 Price Proposal | Complete | Reasonable | Incomplete | No Determination |

AR, Tab F.2., Source Selection Evaluation Board (SSEB) Report at 54.

The PET concluded that TekSynap’s price proposal was incomplete and therefore, the evaluators could not make a reasonableness determination for the SCPL and the TO No. 1 price proposal. AR, Tab C.2.a., TekSynap FPR PET Report at 9, 11-12. Offerors were required to submit their fixed monthly unit pricing for each service catalog item for the full 8-year ordering period using RFP attachment J.4, IDIQ SCPL. AR, Tab A.4.a, RFP amend. 3 at 22. The proposed prices in the SCPL were to be used as the basis for submitting price proposals for future task orders. *Id.* at 23. Specifically, the PET found that TekSynap did not provide “the pricing correctly for a quantity of one unit of

measure” in the SCPL, and did not comply with the pricing instructions in RFP section L.25.6.2.1. AR, Tab C.2.a., TekSynap FPR PET Report at 9. The PET further determined TekSynap did not use the SCPL proposed prices for contract line item numbers (CLINs) 0001, operations and sustainment, and CLIN 0002, special orders in its TO No. 1 price proposal.⁹ *Id.* at 11. As this did not comply with the RFP instructions for section L.25.6.2.3, the PET determined TekSynap’s TO No. 1 proposal was incomplete. *Id.* Consequently, the PET concluded it could not make a reasonableness determination. *Id.* at 9, 12.

Thereafter, the agency’s Source Selection Advisory Council (SSAC) reviewed the evaluation record, performed a comparative analysis of the offers, and recommended award to CARS. AR, Tab F.3., SSAC Report at 4-5. In making this recommendation, the SSAC noted that the PET assessed the price proposals of TekSynap and another offeror as incomplete and unreasonable; nonetheless, the SSAC stated that it would “keep both within the comparative analysis to ascertain if either offeror was still a highly rated proposal in need of further discussions to make corrections to the Price Volume.” *Id.* at 4. Ultimately, however, the SSAC concluded that TekSynap’s proposal was unawardable because the PET determined TekSynap’s SCPL and TO No. 1 price proposals to be incomplete. *Id.* at 5. The SSAC further concluded that TekSynap’s good rating for the technical/management factor did not outweigh CARS’s outstanding rating for the same factor so it did not recommend further discussion with the offerors. *Id.* at 5, 7.

On November 10, the source selection authority (SSA) selected CARS for award. In her decision, the SSA noted that CARS had the lowest TEP and that based upon the technical/management evaluation, CARS was superior to the other three offerors. AR, Tab F.4, Source Selection Decision Document (SSDD) at 4. The SSA concurred with the SSAC and concluded that CARS represented the best value to the government. *Id.* at 5.

The agency notified TekSynap of the source selection decision on November 18. AR, Tab G.2, Award Notice at 1. This protest followed.

DISCUSSION

TekSynap argues that: the agency’s discussions with TekSynap were misleading and were not meaningful; the agency’s price evaluation of TekSynap was unreasonable; the agency’s evaluation of TekSynap’s proposal under the technical/management factor was flawed; the agency unreasonably evaluated CARS’s proposal and did not evaluate CARS and TekSynap equally; and the agency’s errors resulted in prejudice to TekSynap. Of particular significance, TekSynap argues that the agency’s decision not to reopen discussions after determining that CARS’s proposal was technically superior to TekSynap’s proposal was unreasonable because the agency’s evaluation of CARS’s proposal as superior was unreasonable.

⁹ TO No. 1 required proposed pricing for eight CLINs.

For the reasons below, on this record, we find that the agency's evaluation of CARS's proposal as outstanding and technically superior to TekSynap's was unreasonable, and thus, that the agency's decision not to reopen discussions, based on that evaluation, was unreasonable. We sustain the protest on this basis.¹⁰

Technical/Management Evaluation

In reviewing protests of an agency's evaluation and source selection decision, our Office will not reevaluate proposals; rather, we review the record to determine whether the evaluation and source selection decision are reasonable and consistent with the solicitation's evaluation criteria, and applicable procurement laws and regulations. *Celta Servs., Inc.*, B-411835; B-411835.2, Nov. 2, 2015, 2015 CPD ¶ 362 at 7. While we will not substitute our judgment for that of the agency, we will sustain a protest where the agency's conclusions are inconsistent with the solicitation criteria and applicable procurement statutes and regulations, undocumented, or not reasonably based. *Id.* An agency's evaluation of proposals and source selection decision should be documented in sufficient detail to allow for the review of the merits of a protest. *Clark/Foulger-Pratt JV*, B-406627, B-406627.2, July 23, 2012, 2012 CPD ¶ 213 at 10. An agency that fails to adequately document its evaluation of proposals or source selection decision bears the risk that its determinations will be considered unsupported, and absent such support, our Office may be unable to determine whether the agency had a reasonable basis for its determinations. *Id.*

TekSynap complains that the agency's evaluation under the technical/management factor was flawed and challenges virtually every aspect of the agency's evaluation of TekSynap's and CARS's proposals. Of relevance here, TekSynap argues that the agency unreasonably rated CARS's proposal as outstanding despite one of its key personnel failing to meet a mandatory qualification. Supp. Protest & Comments at 17-18. Also relevant, TekSynap argues that the agency failed to evaluate its proposal consistent with the solicitation criteria and improperly assessed TekSynap with a moderate strength for its management approach when the proposal warranted a significant strength. The protester maintains that, as a result, the rating of its proposal as merely good under the technical/management factor was not reasonable. Protest at 19-20; Supp. Protest & Comments at 34-35. TekSynap also argues that the agency's errors led to an unreasonable determination that CARS's proposal was technically superior to TekSynap's, which in turn led to the decision not to reopen discussions with TekSynap. Protest at 24; Supp. Protest & Comments at 39.

¹⁰ TekSynap raised numerous challenges to the agency's evaluation and conduct of discussions; we have considered them all and address only those we find to have merit. In several instances, TekSynap has raised arguments that essentially request that this Office substitute its judgment for the judgment of the procuring agency--something this Office declines to do. See, e.g., *ManTech Advanced Sys. Int'l, Inc.*, B-413717, Dec. 16, 2016, 2016 CPD ¶ 370 at 3.

As discussed in detail below, we find that the contemporaneous record does not support the agency's finding that CARS's proposal is technically superior to TekSynap's proposal. We also find that the agency's unreasonable evaluation resulted in competitive prejudice to TekSynap such that it would have had a substantial chance of award. We address the issue of prejudice below, after first considering the reasonableness of the agency's evaluation CARS's and TekSynap's proposals.

CARS's Evaluation

TekSynap argues that the agency unreasonably assessed CARS's proposal with only a slight weakness for failing to meet a key personnel mandatory qualification. Supp. Protest & Comments at 17-18. TekSynap argues further that as a result of the improper key personnel evaluation, the agency's evaluation of CARS's proposal as outstanding was unreasonable. Supp. Comments at 13.

In response, the agency argues that the RFP afforded the agency the discretion to assign a slight weakness (as opposed to a deficiency) to a proposal that failed to meet mandatory key personnel qualifications. Supp. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 12. The agency argues further that our decision in *Kilda Group, LLC*, B-409144, B-409144.2, Jan. 29, 2014, 2014 CPD ¶ 80, is illustrative because there our Office did not require the agency to assign a deficiency when one key person did not clearly meet minimum qualifications and the solicitation did not provide that the failure to demonstrate key personnel experience would result in the proposal's rejection. Supp. COS/MOL at 13-14. The agency asserts that notwithstanding the slight weakness for key personnel, CARS's proposal warranted an outstanding rating when the other subfactors under the management plan were combined. *Id.* at 16.

The RFP provided that within the technical/management factor, the management plan subfactor is slightly more important than the other subfactors, which are listed in descending order of importance. RFP amend. 2 at 30. The management plan subfactor is comprised of three subfactors: management approach, staffing plan, and key personnel. *Id.* at 32.

As relevant here, the solicitation identifies three key positions (program manager, chief engineer, and operations manager) that will be evaluated for "the extent to which the offeror demonstrates [the key personnel] have the qualifications to perform in the role in accordance with requirements in [the] IDIQ PWS." *Id.* at 32-33. The PWS states that these individuals are "essential to the work performed" and must meet mandatory qualifications. PWS at 13. For the operations manager, one of the mandatory qualifications was "[d]emonstrated and current experience leading, managing and overseeing large-scale enterprise operations and support teams for a minimum of 5 years." *Id.* at 16.

It is undisputed that the agency determined CARS's proposed operations manager does not meet "100% of the mandatory Key Personnel requirements for this position" and as result, the agency assigned CARS a slight weakness for this failing. AR, Tab F.2, SSEB Report at 12. The agency notes that the proposed candidate only met four of the five mandatory qualifications, but met both of the desired qualifications.¹¹ *Id.* In assessing CARS a slight weakness, the agency found:

The proposed candidate's résumé does not depict a level of operations centric management experience commensurate with the Government expectations for this Key Position. The majority of the candidate's work experience as described in the provided résumé involved primarily engineering and mission watch responsibilities. The stated Lead Incident Manager responsibilities do not encompass the full duties or responsibility assigned to an overall Operations Center Manager, and therefore the professional experience described in the candidates résumé does not deliver enough meaningful background to fulfill the mandatory requirement of five years' experience as an Operations Center Manager as outlined in the IDIQ PWS Key Personnel mandatory qualifications. There is a slight risk that the proposed Operations Manager cannot skillfully lead the EMS contract in all operations-related processes and manage the day-to-day operations of technical services under the EMS contract for NGA.

Id. The solicitation defines a slight weakness as "[a] flaw in the proposal that slightly increases the risk of unsuccessful contract performance." RFP amend. 2 at 32.

At the outset, we observe that TekSynap does not advocate for assigning CARS's proposal a deficiency for failing to propose key personnel who meet all mandatory qualifications or that CARS's proposal was not technically acceptable. Rather, TekSynap argues that the agency's assignment of a slight weakness was unreasonable and that CARS's outstanding rating for the management plan subfactor was therefore also unreasonable. Here, the solicitation does not establish that proposals failing to satisfy key personnel mandatory qualifications will be rejected. At most, the RFP states that "[n]on-compliance with any of the [proposal] instruction[s] herein may result in removal from the evaluation." RFP amend. 3 at 2. Therefore, we agree with the agency that, as in *Kilda*, the agency

¹¹ We note that after initial proposals were evaluated, the agency gave CARS's proposal a moderate weakness for the same proposed operations manager because the résumé only demonstrated that four of five mandatory qualifications and one of two desired qualifications were met for this position. AR, Tab E.2.a, CARS Competitive Range Notification at 4. During discussions the agency notified CARS that its operations manager did not "[d]emonstrate experience in enterprise operation, including a minimum of five years management of an IT operations center.' (Mandatory)." *Id.* CARS's revised proposal did not resolve this proposal flaw although it did demonstrate that the second desired qualification was met.

had the discretion not to assign CARS's proposal a deficiency for failing to demonstrate compliance with the mandatory key personnel qualification.

We find however that the record does not support the reasonableness of the agency's determination to assign CARS's proposal only a slight weakness for failing to meet a mandatory key personnel qualification. The agency determined that the résumé for CARS's proposed operations manager indicated "primarily engineering and mission watch responsibilities" and his "Lead Incident Manager responsibilities do not encompass the full duties or responsibility assigned to an overall Operations Center Manager[.]" AR, Tab F.2, SSEB Report at 12. The agency also provided a post-protest declaration from the technical/management evaluation team (TMET) lead explaining why CARS's proposed candidate for operations manager posed only a slight risk of unsuccessful performance and stating that the TMET did not consider failing to meet one mandatory qualification to be a material failure of the proposed candidate to perform. AR, Tab H.4, Supp. Decl. of TMET Lead at 1.

On this record, we cannot conclude that the agency's assignment of only a slight weakness to CARS's proposal for the failure of one of its proposed key personnel to demonstrate a mandatory qualification was reasonable. In addition, it is not apparent from the contemporaneous record and supplemental declarations how a candidate who cannot demonstrate experience in enterprise operations management and who does not meet a mandatory qualification will pose only a slight risk of unsuccessful performance. The agency's post-protest explanation only establishes that the TMET did not consider the lack of experience a material failure. The post-protest explanation does not, in our view, explain how the agency can reasonably assess a slight weakness for a proposal that fails to meet a mandatory qualification standard. We find, therefore, that the agency's assessment of a slight weakness here is unreasonable.

As a consequence of the above finding, we also find that the agency's evaluation of CARS as outstanding for the management plan subfactor is unreasonable. Under the management plan, the agency assessed CARS's proposal with: 2 significant strengths; 7 moderate strengths; 1 slight strength; 2 meets the standard; and 1 slight weakness. AR, Tab F.2, SSEB Report at 54. The RFP describes an outstanding proposal as "indicat[ing] an exceptional approach and understanding of the requirements and contains multiple strengths, and risk of unsuccessful performance is low." RFP amend. 2 at 31. While the definition of outstanding does not preclude award to a proposal with a weakness, we fail to see how an offeror that proposes a candidate that does not meet mandatory qualifications demonstrates either "an exceptional approach" or an "understanding of the requirements" warranting an outstanding rating, even where other subfactors are considered in the analysis. We will not speculate where the record is not clear. We therefore find the agency's outstanding rating for the management plan is unreasonable. Moreover, as the management plan

is the most important subfactor under the technical/management factor, CARS's outstanding rating for this factor is also unreasonable.

TekSynap's Evaluation

TekSynap argues that its proposal warranted a significant strength rather than a moderate strength under the management approach subfactor. Protest at 19-20. TekSynap contends that the agency ignored the RFP's evaluation metrics in assigning its proposal a moderate strength when the agency's comments described how its proposal has "merit or exceeds specified performance or capability requirements" and "significantly reduc[es] the risk of unsuccessful performance[.]" which meets the definition for assigning a significant strength. See Protest at 19-20; Supp. Protest & Comments at 34-35. Accordingly, TekSynap asserts that the agency unreasonably assigned TekSynap's proposal a moderate strength. Protest at 20; Supp. Protest & Comments at 35. Moreover, TekSynap argues that but for the agency's unreasonable evaluation of TekSynap's strengths, TekSynap's proposal would have received a higher rating under the management approach subfactor. Protest at 21.

The agency responds that its assignment of a moderate strength to TekSynap's proposal for its management approach was reasonable and that the TMET viewed TekSynap's management approach as being only moderately advantageous. COS/MOL at 54. The agency argues that TekSynap misunderstands that "the intensity of a strength awarded to aspects of [a] proposal is based not only on merit but on the advantage to the [g]overnment." Supp. COS/MOL at 27. The agency also contends that despite the TMET comments that TekSynap's proposal "significantly reduced" the risk of unsuccessful performance, the agency did not view TekSynap's strategy as "significantly advantageous" and warranting a significant strength. *Id.* In support of its position, the agency supplied a post-protest declaration explaining that the TMET erroneously documented TekSynap's proposal as "significantly reducing the risk of unsuccessful performance" because "the TMET did not discern a high enough risk reduction or benefit to the [g]overnment to warrant a significant strength for TekSynap's approach[.]" AR, Tab H.4, Supp. Decl. of TMET Lead at 4.

The RFP provides a significant strength is warranted where "[a]n aspect of an offeror's proposal that has merit or exceeds specified performance or capability requirements in a way that will be significantly advantageous to the Government during contract performance (or may significantly decrease the risk of unsuccessful contract performance)." RFP amend. 2 at 31.

For management approach, a subfactor under the management plan factor, the agency assessed a moderate strength to TekSynap's proposal and found that TekSynap's "management approach presents a very strong strategy for ensuring the successful management and delivery of EMS services, significantly reducing the risk of unsuccessful performance." AR, Tab F.2, SSEB Report at 32. The agency found that TekSynap's proposal "provided a very detailed depiction of a management strategy that is well thought out, and demonstrates the ability to organize, manage and effectively

execute the scope and complexity of the work to be performed under the contract.” *Id.* The evaluators commented that TekSynap’s proposal “demonstrates broad experience managing sizable [Department of Defense] contracts and has implemented a proven methodology to manage them aligned to [information technology infrastructure library] practices and industry standards.” *Id.* The agency noted that TekSynap holds numerous certifications and demonstrates “a thorough knowledge of NGA Infrastructure Service Provider (ISP)/Application Service Provider (ASP) alignment and structure of current and future contracts overlaying its management plan to support accordingly.” *Id.*

The agency also found that TekSynap’s “detailed understanding will allow the offeror to provide custom support to each stakeholder with a shortened learning curve expediting service to the [g]overnment” and its approach to management plan service needs will “ensur[e] high levels of accountability and detailed records of progress.” *Id.* The evaluators commented that TekSynap’s proposed documentation and status reports “will provide the Government [with a] high level of visibility into management operations.” *Id.*

Agencies are required to evaluate proposals based solely on the factors identified in the solicitation, and must adequately document the bases for their evaluation conclusions. *Sterling Med. Corp.*, B-412407, B-412407.2, Feb. 3, 2016, 2016 CPD ¶ 73 at 6. We accord much greater weight to contemporaneous source selection materials than to representations made in response to protest contentions. *Celta Servs., Inc.*, B-411835; B-411835.2, Nov. 2, 2015, 2015 CPD ¶ 362 at 8-9. Furthermore, we give little weight to post-protest statements that are inconsistent with the contemporaneous record. *Caddell Constr. Co., Inc.*, B-411005.1, B-411005.2, Apr. 20, 2015, 2015 CPD ¶ 132 at 11.

Based on our review of the record, we cannot conclude that the agency has a reasonable basis for assigning a moderate strength to TekSynap’s proposal. In the contemporaneous record, the evaluators positively describe numerous merits of TekSynap’s proposal in detail and state that the management approach “significantly decreas[es] risk of unsuccessful performance” using language similar to language provided in the solicitation for a significant strength.

In a supplemental declaration from the TMET lead, the agency explains its use of the adverb “significantly” was in error and that “the TMET did not discern a high enough risk reduction or benefit to the Government to warrant a significant strength for TekSynap’s approach in this instance.” AR, Tab H.4, Supp. Decl. of TMET Lead at 4. Nowhere, however, in the contemporaneous evaluation documents does the agency explain that it viewed TekSynap’s proposal as being moderately advantageous despite significantly decreasing the risk of unsuccessful performance. Because the agency’s post-protest defense is not supported by the contemporaneous record, we find the explanation to be unpersuasive and afford it little weight. See *Celta Servs., Inc.*, *supra*. Accordingly, we find that the agency’s assignment of moderate strength to TekSynap instead of a significant strength was unreasonable.

Furthermore, it appears from the record that the elevating of one of the findings of moderate strength to a finding of significant strength could have resulted in the assignment of a higher adjectival rating to the protester's proposal under the management plan subfactor. In this regard, we note that while the agency determined TekSynap's proposal merited a good rating based on 2 significant strengths, 5 moderate strengths, 2 slight strengths, 3 meets the standard, and 1 slight weakness, it determined that CARS's proposal merited an outstanding rating based on 2 significant strengths, 7 moderate strengths, 1 slight strength, 2 meets the standard, and 1 slight weakness. AR, Tab F.2, SSEB Report, at 54. In sum, we find that TekSynap's proposal was unreasonably assessed a moderate strength instead of significant strength, and that the assignment of a third significant strength might have elevated the rating of its proposal to outstanding under the management plan subfactor.

Best-Value Determination

TekSynap also argues that the agency's best-value determination was flawed. In this regard, TekSynap asserts that the agency unreasonably determined not to reopen discussions with TekSynap and allow it to make corrections to its price proposal because the SSAC found that TekSynap's good technical/management rating did not outweigh CARS's outstanding rating. Supp. Protest & Comments at 20, 39.

The agency responds that it was within the agency's discretion to reopen discussions with offerors and that the agency was not obligated to do so. Supp. COS/MOL at 2. Specifically, the agency argues that TekSynap's price proposal was incomplete and the errors within it were sufficient to render the proposal unawardable. *Id.* Thus, the agency's decision not to reopen discussions was justified. *Id.* at 31. Further, the agency contends that reopening discussions was unnecessary when other offerors submitted complete and awardable proposals. *Id.* at 2.

The decision whether to reopen discussions is largely a matter left to the agency's discretion. *Northrop Grumman Sys. Corp.*, B-410990.3, Oct. 5, 2015, 2015 CPD ¶ 309 at 8. Nonetheless, any exercise of discretion on the part of the agency in connection with engaging in discussions must be reasonable. See *McCann-Erickson USA, Inc.*, B-414787, Sept. 18, 2017, 2017 CPD ¶ 300 at 9 n.10.

On the record before us, we do not find that the agency's exercise of its discretion was reasonable. Although the SSAC determined that TekSynap's price proposal was incomplete, it elected to consider TekSynap in the comparative analysis to "ascertain if [the] offeror was still a highly rated proposal in need of further discussions to make corrections" to its price proposal. AR, Tab F.3, SSAC Report at 4. The SSAC then concluded that TekSynap's good rating for its technical/management proposal did not outweigh CARS's outstanding technical/management proposal rating and did not warrant an estimated \$2.5 million price premium. *Id.* at 5. Accordingly, the SSAC did not recommend entering into further discussions with TekSynap. *Id.* at 7. Because we find that the agency's evaluation of the proposals of CARS and TekSynap under the technical/management factor was unreasonable, any decision not to engage in further

discussions with TekSynap because CARS's proposal was technically superior to TekSynap's is necessarily unreasonable.

While the agency has no obligation to reopen discussions, its consideration of whether to reopen discussions must be reasonable and cannot be predicated on an unreasonable evaluation. See *McCann–Erickson USA, Inc., supra* (noting any exercise of discretion on the part of the agency in connection with whether or not to reopen discussions must be reasonable). Here, the agency reviewed TekSynap's proposal to determine whether entering into discussions to allow TekSynap to make corrections to its price proposal might result in TekSynap's proposal representing the best value. The agency decided not to reopen discussions because it determined that CARS's proposal was technically superior. As the record does not establish the agency's evaluation of CARS's proposal as technically superior is reasonable, the agency's decision not to engage in discussions is also not reasonable.

Prejudice

We conclude that the agency's evaluation was unreasonable in three material respects. First, the agency's evaluation of CARS's proposal was unreasonable in that the record does not support assessing CARS's proposal with a slight weakness when one proposed candidate for a key personnel position does not meet mandatory qualifications. Second, the contemporaneous record does not establish a reasonable basis for assigning TekSynap's proposal a moderate strength for its management plan and a good rating for TekSynap's technical/management factor. Third, the SSAC's conclusion not to reopen discussions--which could have given TekSynap the opportunity to address the issues with its price proposal--was unreasonable because it was predicated on the agency's unreasonable evaluation.

Nonetheless, our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was competitively prejudiced by the agency's actions; that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. *Raytheon Co.*, B-409651, B-409651.2, July 9, 2014, 2014 CPD ¶ 207 at 17. Our review of the record shows that TekSynap has met its burden of proving a reasonable possibility of prejudice.

Here, but for the above discussed errors, the agency might have (1) rated the CARS's management plan lower, which may have also resulted in a lower rating for CARS under the technical/management factor; and (2) rated TekSynap's management plan higher, leading to a higher technical/management rating for TekSynap. These changes may have eliminated the gap between CARS's and TekSynap's technical/management proposals. Accordingly, we cannot say with certainty that CARS's would be considered technically superior upon reevaluation. Moreover, the agency's decision not to reopen discussions was based on CARS's technical superiority. Consequently, if upon reevaluation the agency determines that TekSynap's proposal is technically superior to CARS's, the agency may ultimately decide to reopen discussions with TekSynap.

Given these identified errors, a best-value tradeoff decision might differ following a revised evaluation. In such circumstances, we resolve any doubts regarding prejudice in favor of a protester since a reasonable possibility of prejudice is a sufficient basis for sustaining a protest. See *Kellogg, Brown & Root Servs., Inc.--Recon.*, B-309752.8, Dec. 20, 2007, 2008 CPD ¶ 84 at 5.

RECOMMENDATION

We recommend that the agency reevaluate proposals in a manner consistent with the terms of the solicitation and this decision or, alternatively, reopen discussions and request revised proposals before reevaluating, and make a new source selection decision based on that reevaluation. We also recommend that the agency reimburse TekSynap its reasonable costs of filing and pursuing its protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protester's certified claim for costs, detailing the time spent and the cost incurred, must be submitted to the agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained.

Thomas H. Armstrong
General Counsel