

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Shuttlewagon Inc.

File: B-419518; B-419518.2; B-419518.3

Date: April 15, 2021

Susan W. Ebner, Esq., Eric Whytsell, Esq., and Judith Araujo, Esq., Stinson LLP, for the protester.

Matthew T. Schoonover, Esq., and Ian P. Patterson, Esq., Schoonover & Moriarty LLC, for Innovative Quality Solutions, LLC, the intervenor.

Felecia R. McBride, Esq., Department of Transportation, for the agency.

John Sorrenti, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that awardee's railway car spotter failed to meet certain minimum technical requirements and should have been found technically unacceptable is denied where the record shows that the agency reasonably determined that the car spotter met the requirements.
 2. Protest that the agency applied an arbitrary standard in concluding that the modifications required for the car spotter were minor is denied where record shows that the agency's analysis was consistent with guidance in the Federal Acquisition Regulation and reasonable.
-

DECISION

Shuttlewagon, Inc., of Oak Creek, Wisconsin, protests the award of a contract to Innovative Quality Solutions (IQS), LLC, of Grandview, Missouri, under request for quotations (RFQ) No. 6913G21Q300005, issued by the Department of Transportation for two railway car spotters. Shuttlewagon argues that IQS's railway car spotter failed to meet certain minimum technical requirements and should have been found technically unacceptable, and that the agency's evaluation applied an arbitrary and unreasonable standard in evaluating the awardee's quotation.

We deny the protest.

BACKGROUND

The agency issued the RFQ under Federal Acquisition Regulation (FAR) part 12, acquisition of commercial items, and FAR subpart 13.5, simplified acquisition procedures, for two railway car spotters for the Portsmouth Naval Shipyard in Portsmouth, New Hampshire.¹ AR, Exh. 3.0, Combined Synopsis/Solicitation, at 4. The RFQ contemplated award of a single, fixed-price purchase order to the vendor “submitting the lowest price along with a technical narrative that lays out an acceptable technical understanding and plan for meeting the [r]ailway [c]ar [s]potters configuration and delivery requirements of this [s]olicitation.”² AR, Exh. 4, RFQ at 14.

The statement of work (SOW) in the RFQ identified a number of different minimum requirements that each car spotter had to meet. *Id.* at 4. As relevant here, the SOW stated that the car spotters “shall be a commercially available model previously tested and approved with minor modifications as required to meet the requirements of this work statement.” *Id.* In addition, the car spotters had to conform to certain clearance requirements of the shipyard and also had to be painted yellow with black or navy blue trim. *Id.* at 4-5. The RFQ instructed vendors that a quotation had to include, among other things, a description of the ability to meet the requirements of the SOW; the “engineering effort if modification is required” for the car spotters to meet the SOW requirements; and the vendor’s understanding of the unique configuration of the car spotters, including shipyard clearances. *Id.* at 11.

The agency received quotations from two vendors, Shuttlewagon and IQS. AR, Exh. 32, Tech. Eval. Rep. at 3. The agency evaluated IQS’s quotation to be technically acceptable and found that it offered the lowest quoted price. *Id.*; AR, Exh. 33, Pricing Review. With regard to Shuttlewagon’s quotation, the agency found that it failed to include documentation demonstrating that Shuttlewagon’s quoted car spotter met all the minimum requirements, and therefore concluded that the quotation was technically unacceptable. *Id.* As a result, the agency made award to IQS. AR, Exh. 35, Simplified Acquisition Summary at 2.

After a debriefing from the agency, Shuttlewagon filed this protest with our Office.

¹ The Department of Transportation provides railroad-related technical and acquisition support to the Navy and was conducting this procurement on behalf of the Navy. Agency Report (AR), Exh. 4, RFQ at 3.

² The agency previously had issued an RFQ for the car spotters as a small business set-aside and made award to Shuttlewagon. Memorandum of Law (MOL) at 4-5. Shuttlewagon subsequently notified the agency that it did not qualify as a small business for the procurement and the agency took corrective action, terminated the award to Shuttlewagon, and chose to issue an unrestricted RFQ for the railway car spotters.

DISCUSSION

Shuttlewagon asserts that the agency's evaluation failed to recognize that IQS's quoted car spotter does not comply with certain of the SOW's minimum requirements and therefore IQS's quotation should have been rejected as technically unacceptable. Shuttlewagon also contends that the agency's conclusion that IQS had to make only minor modifications to its car spotter to meet the solicitation requirements was inconsistent with the terms of the solicitation and unreasonable.³ For the reasons discussed below, we deny the protest.

The simplified acquisition procedures established under FAR part 13 are designed to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors. When using simplified acquisition procedures, an agency must conduct the procurement consistent with a concern for fair and equitable competition and must evaluate quotations in accordance with the terms of the solicitation. *SSI Technology, Inc.*, B-412765.2, July 13, 2016, 2016 CPD ¶ 184 at 3; *Emergency Vehicle Installations Corp.*, B-408682, Nov. 27, 2013, 2013 CPD ¶ 273 at 4. In reviewing a protest of an allegedly improper simplified acquisition evaluation, we examine the record to determine whether the agency met this standard and exercised its discretion reasonably. *DOER Marine*, B-295087, Dec. 21, 2004, 2004 CPD ¶ 252 at 3. The fact that the protester disagrees with the agency's evaluation, by itself, is not sufficient to sustain the protest. *DeWitt & Co., Inc.*, B-417194, Mar. 25, 2019, 2019 CPD ¶ 126 at 3; *Regency Inn & Suites*, B-411066.2, May 8, 2015, 2015 CPD ¶ 154 at 4. For the reasons set forth below, we find the agency's evaluation was reasonable and unobjectionable.

Shuttlewagon argues that IQS's car spotter did not meet the paint scheme required by the solicitation and that IQS's quotation should have been found technically unacceptable. As noted above, the RFQ included a custom paint requirement that stated "[p]aint each unit [s]afety [y]ellow with [n]avy [b]lue or [b]lack trim[.]" RFQ at 3. IQS quoted two options for the paint scheme: option one was red with a dark gray chassis and option two was yellow with a dark gray chassis. AR, Exh. 27.2, IQS Tech. Prop. at 6-7. IQS's quotation included renderings showing the two paint options; while

³ Shuttlewagon also raises other collateral arguments; although we do not address every argument, we have reviewed them all and find no basis to sustain the protest. For example, Shuttlewagon argues that the agency should have rejected IQS's quotation as technically unacceptable for exceeding the 20-page limit because it included website links to two videos about IQS's product. In response to this allegation, the agency stated that it did not evaluate any information from the two videos. Supp. AR, Exh. 3, Tech. Eval. Chair Statement at 2-3. Moreover, the RFQ stated that any information outside the 20-page technical narrative would not be evaluated, and did not require the agency to reject a quotation that went over the page limit. RFQ, amend. 1, at 2. Accordingly, we conclude that this protest ground has no merit.

the quotation did not specify the color of the trim, each rendering appeared to show black paint around the door and window trim. *Id.* at 16-17.

After being notified of award, but prior to receiving an award letter or the purchase order, IQS emailed the contracting officer and asked which color option the agency wanted. AR, Exh. 40, Email from IQS to Agency. The contracting officer responded to IQS that he had to check with the contracting officer's representative, and then did so by email, asking the contracting officer's representative which paint option the agency wanted.⁴ *Id.*, Email from Agency to IQS; Email from Contracting Officer to Contracting Officer's Representative, Dec. 23, 2020. The contracting officer's representative responded that "the proposed paint scheme ([y]ellow) . . . is acceptable." Email from Contracting Officer's Representative to Contracting Officer, Dec. 23, 2020.

The contracting officer informed IQS of this response, and then subsequently emailed an award letter and purchase order to IQS. AR, Exh. 39.1, Award Letter. The award letter stated that IQS "understands that the paint scheme that will be provided will be the on[e] requested and described in the solicitation[.]" *Id.* at 2. The letter also stated that the solicitation did not request the "alternative options and quotes based on different paint and stenciling schemes" in IQS's quotation, and informed IQS that "the [g]overnment will be awarding based on the . . . paint scheme only as stated in the solicitation." *Id.*

Shuttlewagon raised a supplemental protest ground asserting that IQS's quoted paint scheme options did not meet the solicitation's paint requirements, and that the award letter confirmed that the agency did not consider either of the paint options in IQS's quotation to meet these requirements. Supp. Comments at 5, 9. The agency initially responded to this protest ground by arguing that IQS's yellow paint scheme met the requirement, but the agency did not address the contents of the award letter. Shuttlewagon alleged that this response was inconsistent with the record and could not be reconciled with the award letter. *Id.* at 9.

In light of the record and arguments raised by the parties regarding this protest ground, our Office held a conference call with the parties to address the alleged inconsistency in the record with regard to whether the agency found IQS's quoted paint schemes complied with the solicitation requirements. We asked the parties to submit further briefing on this topic.

In its response to our request, the agency maintains that the yellow paint scheme option in IQS's quotation met the requirements. In this regard, the agency provided a statement from the TET chair in which he explains that the solicitation purposefully did not include specific details for the paint scheme, such as the color of the chassis or defining what is considered trim, "so that manufacturers could adapt their commercial standard paint schemes to the requirements of the solicitation." TET Chair Statement,

⁴ The contracting officer's representative was also the technical evaluation team (TET) chair for this procurement.

Mar. 29, 2021, at 1. The TET chair asserts that one of IQS's two paint options was yellow with black trim, and that while IQS also identified the color of the railcar spotter's chassis, the solicitation did not require any specific color for the chassis. *Id.* at 3. The TET chair further explains that dark grey is common in the rail environment for the chassis, which he describes as the underframe, of a car spotter. *Id.* at 2.

The agency also contends that the award letter merely reflected that the agency was not going to choose one of the two paint schemes quoted by IQS because the solicitation did not request paint scheme options. Supp. MOL, Mar. 29, 2021, at 2. According to the agency, the award letter "simply stated that the awardee will comply with the required paint scheme in the solicitation which the parties understood and the solicitation required to be the yellow paint scheme for the unit with the black or navy blue trim," and that IQS proposed a yellow unit with black trim, which met the requirements. *Id.*

For its part, Shuttlewagon refutes the agency's contention that the solicitation allowed vendors to utilize their commercial standard paint schemes for some parts of the car spotter. 2nd Supp. Comments at 6. In this regard, Shuttlewagon argues that the solicitation referred to painting the car spotter "unit" yellow, and that because this did not exclude the underframe or chassis of the railcar, vendors were not left to use their commercial standards as the agency has argued.⁵

On this record, we find the agency's conclusion and explanation that it found IQS's yellow paint option met the solicitation requirements to be unobjectionable. The RFQ required only that the car spotter be painted yellow with black or navy blue trim. As noted above, IQS quoted a yellow paint scheme option, and a rendering of that option appeared to indicate that there would be black paint around the windows and door. The

⁵ Shuttlewagon also argues that the agency's explanations are *post hoc* rationalizations that are inconsistent with and contrary to the contemporaneous record and should be afforded little weight. 2nd Supp. Comments at 2. In reviewing an agency's evaluation, we do not limit our consideration to contemporaneously-documented evidence, but instead consider all the information provided, including the parties' arguments and explanations concerning the contemporaneous record. *Remington Arms Co., Inc.*, B-297374, B-297374.2, Jan. 12, 2006, 2006 CPD ¶ 32 at 10. We will accept *post hoc* explanations that fill in previously unrecorded details and that are credible and consistent with the contemporaneous record. See *Epsilon, Inc.*, B-419278, B-419278.2, Feb. 2, 2021, 2021 CPD ¶ 71 at 5.

Here, while the contemporaneous record did not contain a detailed discussion about the evaluation of IQS's proposed paint schemes, the agency has provided explanations as to why it found that IQS's yellow paint scheme met the requirements. It also has provided a credible explanation of the language in the award letter and demonstrated that the contracting officer's representative stated that IQS's yellow paint scheme was acceptable prior to issuing the award letter. On this record, we deny this challenge.

RFQ did not specify a color for the chassis of the car spotter and therefore the agency's acceptance of a dark grey chassis does not violate any solicitation requirements. Moreover, an email from the contracting officer's representative--who also was the TET chair for this procurement--sent prior to the issuance of the award letter, confirmed that IQS's yellow paint scheme was acceptable. We also find reasonable the agency's explanation that the award letter merely reiterated that the agency did not want to choose from multiple paint scheme options, and that IQS had to provide the paint scheme as stated in the solicitation, which IQS's yellow paint option satisfied. Accordingly, we find reasonable the agency's conclusion and subsequent explanation that IQS's quotation met the RFQ's paint scheme requirements.⁶

Shuttlewagon contends that IQS's quoted car spotter also failed to meet the minimum clearance requirements in the shipyard. Supp. Comments at 2. The RFQ required the car spotter to conform to certain clearances and identified specific measurements the car spotter had to meet so that it would not hit obstacles in the shipyard. RFQ at 4. As relevant here, the RFQ stated that certain buildings and other infrastructure required a clearance of 5.83 feet from the centerline of the track on both sides. *Id.*

Shuttlewagon asserts that IQS's car spotter did not meet these measurement requirements because of the side mirrors on the car spotter. Supp. Comments at 3. In this regard, Shuttlewagon notes that IQS's quotation stated that the car spotter's mirrors had to be hand-adjusted inward to comply with the required clearances. *Id.* Shuttlewagon argues that neither the quotation nor the contemporaneous record state that the mirrors can be used while they are adjusted inward. Thus, Shuttlewagon maintains, because the mirrors must be folded in to meet the required clearances, and because it is not clear whether the mirrors function when they are folded in, IQS's car spotter did not meet the clearance requirements.

In response, the agency points out that IQS's car spotter meets the clearance requirements with the mirrors folded in, and the solicitation required only that the car spotter have heated mirrors on the left and right front sides. Supp. AR, Exh. 3, TET

⁶ Shuttlewagon also has argued in the alternative that the agency improperly relaxed the solicitation's requirements in accepting IQS's quoted paint scheme. An agency may waive or relax a material solicitation requirement when the award will meet the agency's actual needs without prejudice to the other offerors. *Engility Servs., LLC*, B-416588.3, B-416588.4, Mar. 20, 2020, 2020 CPD ¶ 110 at 8. Unfair competitive prejudice from a waiver or relaxation of the terms and conditions of the solicitation for one vendor exists where the protester would have altered its proposal to its competitive advantage, had it been given the opportunity to respond to the altered requirements. *Id.* Prejudice does not simply mean that, had the agency failed to waive the requirement, the awardee would have been unsuccessful. *Glem Gas S.p.A.*, B-414179, Feb. 23, 2017, 2017 CPD ¶ 60 at 4. Here, even if we were to find that the agency relaxed the paint requirement, Shuttlewagon has not stated what it would have done differently in its quotation if the agency had also relaxed this requirement for Shuttlewagon; therefore Shuttlewagon has not shown that it was prejudiced by any relaxation of this requirement.

Chair Statement at 3; RFQ at 4. The agency thus argues that the RFQ “did not require the mirrors to view any obstructions at all times.” Supp. AR, Exh. 3, TET Chair Statement at 3. Moreover, the agency explains that IQS’s railcar spotters also have cameras that provide “unobstructed views down along the sides of the railcars.” *Id.*

On this record, we find that Shuttlewagon has not shown that IQS’s car spotter failed to meet the clearance requirements identified in the solicitation. In fact, Shuttlewagon’s argument is not that IQS’s car spotter fails to meet the clearance requirements, but that IQS must fold in the mirrors to do so, allegedly rendering the mirrors inoperable. As the agency notes, the solicitation required only that the mirrors be heated and located on the left and right front sides of the car. The solicitation was silent about whether the mirrors had to be operable and functional at all times. Thus, Shuttlewagon has not demonstrated that the need to fold in the mirrors to meet certain clearances represents a failure to meet any solicitation requirement. Moreover, the agency has stated that even if the mirrors must be folded in, IQS’s car spotters have cameras that provide additional visibility and sightlines along the sides of the spotters. We therefore conclude that this protest ground provides no basis to sustain this protest.

Shuttlewagon raises two arguments regarding the SOW requirement that the car spotter be a “commercially available model previously tested and approved with minor modifications as required to meet the requirements of the work statement.” Comments & 2nd Supp. Protest at 8. First, Shuttlewagon asserts that IQS’s quotation does not demonstrate that its car spotter has been “previously tested and approved,” and that the agency’s evaluation did not consider whether IQS’s car spotter had been tested and approved. *Id.* at 8-11. Second, Shuttlewagon contends that the modifications IQS must make to its car spotter to meet the solicitation’s requirements are anything but minor, and therefore IQS’s quotation was technically unacceptable. See *id.* at 13-17. Shuttlewagon also asserts that the contemporaneous evaluation contains no analysis of whether IQS’s modifications were minor, and that the analysis explained by the agency in response to this protest ground applied an unreasonable and arbitrary standard. Supp. Protest at 6-7. We address each argument in turn.

With respect to the requirement that the car spotter be previously tested and approved, the agency’s evaluation of IQS’s car spotter stated only that “[t]he BOSS ZX series is a commercially available model with minor modifications for [Portsmouth Naval Shipyard]”.⁷ AR, Exh. 32, Tech. Eval. Rep. at 9. In response to this protest ground, the agency submitted a statement from the TET chair, in which he explained that there is no regulatory body that performs testing for railcar spotters. However, since the car spotters quoted by IQS and Shuttlewagon both were commercially available and in service in the market, the agency considered that both car spotters met the requirement to be previously tested and approved. Supp. AR, Exh. 3, TET Chair Statement at 2. The TET chair further explained that he confirmed the commercial availability of the car spotters through the market research he conducted prior to the procurement, which

⁷ The BOSS ZX series is one of the models of car spotter offered for sale by IQS and the one quoted for this procurement. See AR, Exh. 27.2, IQS Tech. Prop. at 3.

showed that an authorized distributor of IQS's car spotters had sold the BOSS ZX model. See *id.* at 1-2.

We find that the agency's determination that IQS's quoted car spotter met the requirement to be previously tested and approved was reasonable. The RFQ did not explain how the vendors should demonstrate that the car spotter had been previously tested and approved. In addition, the protester concedes that there is no regulatory body that establishes a testing or approval process on which the agency could rely when conducting its evaluation. Comments & 2nd Supp. Protest, attach. 1, Declaration of Shuttlewagon Engineer at 3. Given this, the agency had discretion to determine what would be sufficient to show that a vendor's car spotter was "previously tested and approved" as contemplated by the solicitation. On this record, in a commercial item procurement using simplified acquisition procedures, we find it reasonable for the agency to conclude that a product that was commercially available and in service in the market met the requirement that it be previously tested and approved. Accordingly, we find the agency's explanation for why it found IQS's quoted car spotter met the requirement to be previously tested and approved to be unobjectionable.⁸

We turn now to Shuttlewagon's argument that the modifications to IQS's car spotter are not minor, and thus, the agency should have found IQS's quotation technically unacceptable. The RFQ required vendors to provide "[a] brief description of the engineering effort if modification is required" for the car spotters to meet the solicitation requirements. RFQ at 11. In its quotation, IQS explained that to meet the requirements of the work statement, "[m]inor modifications will be made to the [DELETED]." AR, Exh. 27.2, IQS Tech. Prop. at 3. IQS further described that the modifications involved [DELETED] to comply with the shipyard clearances, and that the steps of the car spotter would need to be [DELETED]. *Id.* IQS's quotation included an appendix that showed a picture of the car spotter and indicated which parts would be modified. *Id.* at app. A.

In response to Shuttlewagon's protest, the agency provided a statement from the TET chair in which he stated that the TET "unanimously agreed that the modification was minor" and therefore the agency did not include an analysis of the modification in the evaluation report. AR, Exh. 49B, TET Chair Statement at 1. The TET chair further explained that to assess whether the modifications were minor, the TET looked to the FAR, which states that minor modifications are those that do not "significantly alter the

⁸ To the extent Shuttlewagon claims that IQS's quoted car spotter *as modified* had to be previously tested and approved, we disagree. The requirement stated that the car spotter had to be a "commercially available model previously tested and approved with minor modifications as required to meet the requirements of the work statement." The "previously tested and approved" language applies to the commercially available model and does not contemplate testing the modified car spotter. Moreover, the RFQ separately required the agency to test the car spotter after it was delivered. RFQ at 6. Thus, we find no support in the RFQ for Shuttlewagon's argument that IQS had to demonstrate that the modified version of its car spotter was previously tested and approved.

nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process.” AR, Exh. 49, TET Chair Statement at 3; FAR 2.101. The TET chair noted that the FAR also states that the value and size of the modification as compared to the value and size of the final product can be used as guideposts when determining whether a modification is minor, but they are not conclusive evidence of such. *Id.*

The TET chair stated that based on the TET’s experience and familiarity with similar railway equipment, one guidepost the agency used was the estimated cost of the modification. *Id.* at 4. In this regard, the TET considered the modification to be minor if the cost of the modification was 10 percent or less of the overall cost of the car spotter. *Id.* Because IQS’s quotation did not provide a cost for the proposed modifications, the cost the TET used was derived from the TET’s experience working in the field as well as the market research the agency conducted and the independent government estimate.⁹ *Id.* According to the TET chair, the TET “estimated that it would take between 15 and 25 hours to complete the modification with a cost estimated at less than \$2,000 per railway car spotter vehicle,” which was less than 10 percent of the total quoted cost of one of IQS’s car spotters. AR, Exh. 49B, TET Chair Affidavit at 1. The TET chair stated that in addition to the cost of the modification, the agency also considered structural integrity and whether the modification affected major components. *Id.*

Ultimately, the agency concluded that the modification was minor because the cost of the modification was less than 10 percent of the overall cost of the car spotter and because the modification “does not require a re-engineering analysis, does not compromise the strength of the frame, welded connections, or affect other major components . . . and it does not change the function or capability of the railway car spotter vehicle.” AR, Exh. 49, TET Chair Affidavit at 4. The TET chair further explained that “it was clear to each of the TET evaluators that the proposed modification to conform to the [clearance] requirement by [DELETED] would not negatively affect the integrity of the components, would not change the intended function of the product, or standard operating procedures, and the equipment would still function as designed for its intended commercial purpose.” *Id.* at 4-5.

Shuttlewagon essentially contends that the agency’s analysis relied on an arbitrary standard that was not mentioned in the solicitation and was unreasonable. In particular, Shuttlewagon asserts that using 10 percent of the total cost of the car spotter was not stated in the solicitation, and the agency’s use of market research to determine the estimated cost meant that its analysis was not based on the actual costs of IQS’s modifications or car spotter. Supp. Protest at 6-7. With respect to the latter argument, Shuttlewagon argues that IQS’s quotation did not state how much the modifications would cost nor did it provide details about what the modifications entailed--for example,

⁹ The TET chair stated that during market research, the agency identified IQS and Shuttlewagon as the only companies that could provide the car spotters the agency needed, but that both would require some modification to their commercially available products. AR, Exh. 49, TET Chair Statement at 3.

how much [DELETED] IQS had to [DELETED] of the car spotter. Comments & 2nd Supp. Protest at 15. Shuttlewagon maintains that [DELETED] would affect the stability and structure of the railcar spotter, and that the agency never considered this. *Id.* Shuttlewagon also argues that the agency's conclusion that it would take between 15 and 25 hours to complete the modification is contrary to IQS's quotation. *Id.* at 16.

On this record, we find the agency's evaluation to be reasonable. The RFQ did not provide a definition for a minor modification or state how the agency would determine what constituted a minor modification. Given this, we find it reasonable that the agency used the FAR for guidance on how to determine whether a modification was minor. Consistent with the FAR, the agency explained that it used the cost of the modification as a guidepost, as well as considering the effect of the modification on the structure and integrity of the car spotter. In our view, the agency's use of an analysis explicitly outlined in the FAR to determine whether a modification is minor is unobjectionable and does not constitute the application of an arbitrary or unreasonable standard.

While Shuttlewagon objects that IQS's quotation did not include enough information about the modifications for the agency to conduct its analysis, the RFQ required that vendors provide only a "brief description of the engineering effort" for the modifications and did not require that vendors provide the cost of the modifications. Here, IQS provided a brief description of the modifications it would complete, and we find it reasonable for the agency to rely on its understanding of the railway industry in general, and market research of IQS's car spotter in particular, to estimate the cost and effort that IQS's modifications would entail. Moreover, contrary to Shuttlewagon's assertion, the agency specifically states that it determined that the modifications would not affect the integrity of the components or strength of the [DELETED] of the car spotter.

Finally, Shuttlewagon claims that the agency's estimation of how much time the modifications would take to complete is contradicted by IQS's quotation. This assertion is based on a high-level project timeline included in IQS's quotation. The timeline shows different events that would occur, such as project award, project kickoff meeting, and [DELETED] modifications, and for each event identifies the week or weeks the event would occur. For [DELETED] modifications, the timeline shows them occurring in week one for the first car spotter and week two for the second car spotter. AR, Tab 27.2, IQS Tech. Prop., app. I.

Shuttlewagon asserts that this timeline shows that it will take at least one week to complete the modifications on one car spotter, and assuming a 40-hour work week, that is longer than the 15 to 25 hours estimated by the agency. We find Shuttlewagon's argument unpersuasive. The timeline only indicates, without providing details, the week within which IQS anticipated certain events occurring. The fact that IQS indicated that modifications would take place in weeks one and two does not necessarily mean that IQS would need to work all week to complete the modifications. Indeed, the timeline also shows that the project award and project kickoff meeting both take place in week one, but this does not mean that each of these events will take an entire 40-hour work

week. We therefore reject Shuttlewagon's argument that the agency's estimation contradicts the project timeline in IQS's quotation.

In short, we find that the agency's analysis of whether IQS's proposed modifications were minor was consistent with the guidance in the FAR and reasonable. We therefore deny this protest ground.

The protest is denied.

Thomas H. Armstrong
General Counsel