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Decision

Matter of: Battelle Memorial Institute

File: B-420253; B-420253.4; B-420253.5

Date: January 12, 2022

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DIGEST

1. Protest that the agency failed to assess multiple benefits to the protester's quotation, while unreasonably assessing two risks, is denied where the record shows that the evaluation was reasonable and consistent with the solicitation.
2. Protest that the agency's evaluation of proposed key personnel was unequal is denied where the record shows that the difference in the agency's assessment of benefits and risks was based on the differences in the vendors' quotations.
3. Protest that the agency waived a material solicitation requirement for the awardee is denied where the record shows that the agency did not waive the solicitation requirement and reasonably found the awardee's proposed approach to travel costs to be acceptable.
4. Protester is not an interested party to challenge the agency's evaluation of awardee's technical quotation where the protester has not challenged an intervening vendor, and the record shows that even if the protest were sustained on this ground, the protester would not be next in line for award.

DECISION

Battelle Memorial Institute, of Columbus, Ohio, protests the establishment of a blanket purchase agreement (BPA) with Science Applications International Corporation (SAIC),

of Reston, Virginia, under request for quotations (RFQ) No. 70T04021Q7672N001, issued by the Department of Homeland Security, Transportation Security Administration (TSA), for acceptance testing support services for transportation security equipment. The protester challenges various aspects of the agency's evaluation of quotations.

We deny the protest in part and dismiss it in part.

BACKGROUND

On May 18, 2021, the agency issued the RFQ through the General Services Administration's (GSA) e-Buy system, to vendors holding GSA Multiple Award Schedule (MAS) contracts for Professional Services - Technical and Engineering Services (non-IT).¹ Memorandum of Law (MOL) at 2; Agency Report (AR), Tab 6, RFQ amend. 5 at 1702.² The RFQ was issued under the Federal Supply Schedule (FSS) procedures of Federal Acquisition Regulation (FAR) subpart 8.4. RFQ at 1702.

The solicitation sought quotations to provide support services for acceptance testing of transportation security equipment, including inspection and dynamic testing of systems or major system components. MOL at 2; see AR, Tab 1, RFQ, attach. ATSS-4, Performance Work Statement (PWS) at 0119-0120.³ The RFQ anticipated the establishment of a fixed-price BPA under the vendor's GSA MAS contract with a 5-year period of performance, consisting of a 12-month base period and four 1-year options. RFQ at 1701, 1703.

The RFQ advised that a BPA would be established with the vendor whose quotation was determined to best meet the needs of the agency, *i.e.*, provide the best value, considering the following four factors (in descending order of importance): (1) demonstrated prior experience; (2) management, planning, and technical execution; (3) personnel and staffing approach; and (4) price. *Id.* at 1808. All non-price factors, when combined, were considered significantly more important than price. *Id.*

The solicitation provided that quotations would be evaluated in two phases. The first phase would be an advisory "down-select" based on the demonstrated prior experience

¹ The e-Buy system is GSA's online RFQ tool specifically designated in Federal Acquisition Regulation (FAR) subpart 8.4 for ordering activities to post requirements electronically. FAR 8.402(d).

² The solicitation was amended five times. Contracting Officer's Statement (COS) at 2-3. Citations to the solicitation are to the final amended version of the RFQ issued under solicitation amendment number 5. AR, Tab 6, RFQ amend. 5. The agency assigned sequential BATES numbers to the documents submitted with its report. Citations to pages in those documents are to the applicable BATES number.

³ Citations to the PWS are to the attachment ATSS-4 to the initial version of the RFQ with attachments, provided at Tab 1 of the agency report. See AR, Tab 1, RFQ, attach. ATSS-4, PWS.

factor, and the second phase would be based on the evaluation under the remaining three factors. *Id.* at 1809.

Under the demonstrated prior experience factor, the agency would assess whether the vendor's quotation demonstrated relevant prior experience and assign a rating of pass or fail. *Id.* Vendors that received a rating of pass would be advised to proceed to phase II, while vendors that received a rating of fail would be advised not to proceed to phase II. *Id.*

In phase II, the agency would evaluate quotations under the remaining three factors: (1) the management, planning, and technical execution; (2) personnel and staffing approach; and (3) price. *Id.* at 1810-1811. The RFQ instructed vendors to respond to specific questions provided by the agency as part of the phase I advisory notice. *Id.* at 1770, 1806; see AR, Tab 10, Battelle Phase I Notice at 2030-2032; Tab 17, SAIC Phase I Notice at 2455-2457.

Under the management, planning, and technical execution factor, the agency would evaluate vendors' responses to the agency's questions related to their "technical solution, approach, capabilities, and general understanding of the requirement to assess how the technical quote satisfies the requirements provided by the Government." RFQ at 1809. Under the personnel and staffing approach factor, the RFQ informed vendors that the agency's evaluation would focus on the vendor's labor mix, level of effort, and overall staffing approach. *Id.*

For the price factor, the RFQ informed vendors that the agency would evaluate proposed prices to determine if they are fair and reasonable for the work to be performed in accordance with FAR section 12.209. *Id.* at 1811. The RFQ noted that the agency may use, as part of its evaluation under the non-price factors, the basis of estimate and proposed labor categories provided on the vendor's unit price build up. *Id.*

The agency received timely quotations from four vendors, including Battelle and SAIC, and, after the phase I evaluations, advised all four vendors to proceed to phase II. COS at 3. After receipt of timely phase II quotations from the four vendors, the agency's technical evaluation team (TET) and price evaluation team (PET) evaluated the quotations. *Id.* As specified in the solicitation, the TET identified benefits and risks⁴ (in lieu of strengths and weaknesses) in each vendor's quotation under the two non-price factors and assigned ratings of high confidence, medium confidence, low confidence, or no confidence. *Id.* at 1809-1811.

⁴ The RFQ defined a benefit as an "element of the [quotation that] exceeds a requirement of the RFQ in a beneficial way to the Government" and a risk as an "element that has the potential to cause a disruption of schedule, an increase in price, or a degradation of performance." RFQ at 1809.

The source selection evaluation board (SSEB) reviewed the technical evaluation reports and the price evaluation report, and prepared a consensus report, evaluating the quotations from three vendors,⁵ including Battelle and SAIC, as follows:

| | BATTELLE | VENDOR A | SAIC |
|--|-------------------|-------------------|-------------------|
| Demonstrated Prior Experience | Pass | Pass | Pass |
| Management, Planning, and Technical Execution | Medium Confidence | Medium Confidence | Medium Confidence |
| Personnel and Staffing Approach | High Confidence | High Confidence | High Confidence |
| Total Evaluated Price | \$81,818,341 | \$45,656,901 | \$40,876,684 |

AR, Tab 28, Consensus Evaluation Report at 2783.

The SSEB recommended that the agency make an award to SAIC after conducting a comparative analysis of the benefits and risks in the three vendors' quotations. *Id.* at 2784-2789. Noting that the TET "identified different risks and benefits for SAIC than it did for Battelle or [Vendor A]," the SSEB concluded that any risks found in SAIC's quotation were not worth trading off in favor of the two higher-priced offerors. *Id.* at 2784. The SSEB explained that, "[w]hile all Non-Price/Cost factors, when combined, are significantly more important than Price/Cost, here the Non-Price/Cost factors are equal between SAIC, Battelle, and [Vendor A]." *Id.*

The source selection authority (SSA) considered the information provided by the TET, PET, and SSEB, including the comparative analysis and award recommendation by the SSEB, and concurred with their findings. AR, Tab 29, SSA Decision Memorandum at 2791. Specifically, the SSA found that the different benefits and risks the TET identified in Battelle's and Vendor A's quotations were "not worth trading off in light of SAIC's price, which is more than 100% less than Battelle's price and 11.78% lower than [Vendor A's] price," and concluded that SAIC's quotation represented the best value to the government. *Id.*

The agency notified Battelle of its selection decision on September 29, 2021, and provided to Battelle a brief explanation of the agency's decision on October 8. This protest followed.

DISCUSSION

Battelle challenges numerous aspects of the agency's evaluation. First, the protester contends that the agency overlooked several benefits and assessed risks that lacked reasonable bases in its quotation under the management, planning, and technical execution factor, resulting in Battelle receiving a lower rating than it deserved. Protest

⁵ The agency evaluated the quotation of the fourth vendor and concluded that it was ineligible for award based on a rating of no confidence under the personnel and staffing approach factor. AR, Tab 28, Consensus Evaluation Report at 2787.

at 10-16; Supp. Protest at 3-11. The protester also complains that the agency's evaluation of the vendors' proposed task leads under the personnel and staffing approach factor was unequal. Comments and 2nd Supp. Protest (Comments) at 25-29. The protester raises other challenges to the agency's evaluation of SAIC's quotation under the personnel and staffing approach factor. Protest at 17-19; Supp. Protest at 11-13. Finally, the protester alleges that the agency waived a material solicitation requirement for the awardee under the price factor without giving the protester an opportunity to compete on equal basis.⁶ Comments at 2-12.

We note that where, as here, an agency issues an RFQ to GSA FSS contractors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. *VariQ Corp.*, B-409114 *et al.*, Jan. 27, 2014, 2014 CPD ¶ 58 at 8. The evaluation of quotations is a matter within the discretion of the procuring agency; we will not question the agency's evaluation absent a showing that the evaluation is unreasonable or inconsistent with the solicitation. *Analytical Innovative Solutions, LLC*, B-408727, Nov. 6, 2013, 2013 CPD ¶ 263 at 3.

We have reviewed all of the protester's allegations and conclude that there is no basis to sustain Battelle's protest. As discussed below, we find that the agency reasonably and equally evaluated Battelle's quotation under the non-price factors and evaluated SAIC's price in accordance with the solicitation. Moreover, the protester has not challenged the agency's evaluation of an intervening vendor, whose quotation was evaluated to be technically equal to Battelle's with a total evaluated price that was almost 50 percent less than Battelle's price. Thus, we also find that the protester is not an interested party to challenge the agency's evaluation of SAIC's technical quotation.

Evaluation of Battelle's Quotation

The protester first alleges that under the management, planning, and technical execution factor, the agency unreasonably failed to assess several deserved benefits and assessed two undeserved risks to its quotation. The protester also alleges that the agency disparately evaluated its and the awardee's quotations under the personnel and staffing approach factor. We have reviewed all of the protester's arguments and find

⁶ In its initial protest, Battelle raised challenges to other aspects of the agency's evaluation, including the evaluation of the awardee's quality assurance/quality control plan and compensation plan. See Protest at 12-13, 14-16, 19-29. The agency substantively responded to these challenges in its report. See Memorandum of Law (MOL) at 7-8, 11-13, 15-20. The protester, in its comments, did not address the agency's responses to these other challenges, but noted that, "[t]o the extent protest grounds are not addressed in this filing, those grounds should be considered withdrawn." Comments at 2 n.1. Accordingly, we consider those initial protest grounds withdrawn.

that none of them present a basis to sustain the protest. We discuss below some representative examples.

Management, Planning, and Technical Execution

Battelle contends that its responses to three of the agency's phase II questions under the management, planning, and technical execution factor warranted assessment of separate and distinct benefits, and that two of the three risks the agency identified in its quotation under the factor were unreasonable. Protest at 10-16; Comments at 17-19; Supp. Protest at 3-11. The protester argues that, had the agency properly assessed these contested benefits and risks, it would have received a higher rating for the factor, especially in light of Battelle's "significantly superior" experience and expertise as "the incumbent with over 20 years of experience." Protest at 1, 11. In response, the agency contends that it reasonably evaluated Battelle's quotation under the management, planning, and technical execution factor and identified benefits and risks in accordance with the terms of the solicitation. MOL at 6-11, 21-23.

In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. *Castro & Co., LLC*, B-415508.10, June 11, 2019, 2019 CPD ¶ 215 at 4. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. *Creoal Consulting, LLC*, B-419460; B-419460.2, Mar. 4, 2021, 2021 CPD ¶ 148 at 8. Further, an agency's judgment that the features identified in a quotation did not significantly exceed the requirements of the solicitation, and thus did not warrant the assessment of unique strengths, is a matter within the agency's discretion and one that our Office will not disturb where the protester has failed to demonstrate that the evaluation was unreasonable. See *UDC USA, Inc.*, B-419671, June 21, 2021, 2021 CPD ¶ 242 at 7. In this respect, an agency is not required to document all "determinations of adequacy" or explain why it did not assess a strength, weakness, or deficiency for a particular item. See *id.*

Battelle first argues that the agency should have assessed separate and additional benefits for each of its responses to question numbers 8, 10, and 11, instead of assessing one generalized benefit. Protest at 10-16; Comments at 17-19. For example, Battelle contends that its response to question 8, which required vendors to describe their "expertise and capability to implement the [American National Standards Institute (ANSI)] N42.45 for the applicable technology," should have received a separate and distinct benefit, rather than a generalized benefit for ANSI expertise.⁷ Protest at 10-11; Comments at 17-18; AR, Tab 7, Amended Phase II Questions at 4. Battelle contends that its response to this question demonstrated its "unparalleled experience

⁷ The RFQ stated that ANSI N42.45 is "the American National Standard for Evaluating the Image Quality of X-ray Computed Tomography (CT) Security Screening Systems." PWS at 1082.

and capability” as “the only company that has implemented ANSI N42.45 for X-ray CT acceptance testing requirements” and thus deserved an additional benefit. Protest at 10-11; Comments at 17-18.

The agency responds that it recognized Battelle’s experience and expertise in ANSI N42.45 and accordingly assessed a benefit for this aspect of the protester’s quotation. MOL at 6. The agency argues that Battelle’s response to questions 8, 10, and 11, which for the most part demonstrated the protester’s knowledge of the existing processes and operations related to the ANSI standard as the current incumbent contractor performing this work, did not warrant added benefit for the agency beyond the one already assigned for its ANSI expertise. *Id.*

As noted, the RFQ provided that the agency would evaluate vendors’ responses to the agency-provided questions for the vendor’s “technical solution, approach, capabilities, and general understanding of the requirement to assess how the technical quote satisfies the requirements.” RFQ at 1809. While the RFQ defined a benefit as an “element of the [quotation that] exceeds a requirement of the RFQ in a beneficial way to the Government,” it did not require that the agency assign these benefits in a manner that corresponds to the number of questions provided. *Id.*

As relevant here, questions 8 through 12 of the phase II questions under this factor required the vendor to describe some aspect of its expertise, capability, and approach related to ANSI N42.45 standard. AR, Tab 7, Amended Phase II Questions at 1927. For example, question 8 required vendors to describe their “expertise and capability to implement” the standard; question 10 required vendors to describe their “manufacturing capability and quality assurance process to build and enable the use of ANSI N42.45 test kits”; and question 11 asked for the vendor’s “process on issue resolution when the system fails due to ANSI N42.45.” *Id.*

The record shows that one of four benefits assessed in Battelle’s quotation under the management, planning, and technical execution factor was specifically related to the agency’s assessment of Battelle’s expertise related to ANSI N42.45 standard, as follows:

The offeror has demonstrated significant knowledge and expertise related to the ANSI N42.45 standard leading to specific approaches that will enhance the current phase of the ANSI program including:

- [DELETED]
- [DELETED] enhancements
- [DELETED] solution for [DELETED]
- Testing for [DELETED]

AR, Tab 23, Battelle Factor II TET Report at 2761. The agency explains that this benefit encompasses the agency’s assessment of Battelle’s responses to several questions related to the ANSI N42.45 standard, which demonstrated Battelle’s

considerable expertise in and experience with the standard. MOL at 6-11; MOL, attach. A, TET Chair Declaration at 1-2. The agency further explains that, while the TET considered other aspects of the protester's responses to these questions, such as Battelle's "extensive pre-award knowledge of the existing ANSI N42.45 program process," it concluded that these aspects "did not justify multiple benefits to the government, as those processes are fully documented for review and implementation by any awardee." MOL, attach. A, TET Chair Declaration at 3.

On this record, we find no basis to object to the agency's evaluation. As noted, an agency's judgment of whether to assess unique strengths is a matter within the agency's discretion and one that we will not disturb where the protester has failed to demonstrate that the evaluation was unreasonable or inconsistent with the applicable evaluation criteria. *SMS Data Products Group, Inc.*, B-418925.2 *et al.*, Nov. 25, 2020, 2020 CPD ¶ 387 at 6; *Raytheon Co.*, B-417935 *et al.*, Dec. 13, 2019, 2020 CPD ¶ 6 at 7. Contrary to the protester's allegations, the record shows that the agency evaluated multiple "approaches" in Battelle's quotation demonstrating how its expertise in the ANSI standard benefits the government. AR, Tab 23, Battelle Factor II TET Report at 2761. Whether the agency counted these aspects of the protester's quotation as multiple aspects of one benefit, or as separate standalone benefits, is not relevant; the relevant inquiry is the reasonableness of the substantive evaluation findings. See *SMS Data Products Group, Inc.*, *supra* at 8. Here, we find nothing unreasonable in the agency's substantive evaluation of Battelle's responses to multiple questions related to the ANSI standard as one benefit with multiple aspects.

The protester also alleges that two of the three risks that the agency identified in Battelle's quotation under the management, planning, and technical execution factor were unreasonable. For example, the protester argues that the agency unreasonably assessed a risk for Battelle's proposed use of multiple management systems and tools for different elements of the PWS instead of a single, multi-use solution. Supp. Protest at 3-7. The agency responds that its evaluation was reasonable because the solicitation required a single, "turnkey" solution for data management. MOL at 21-22.

The record shows that section 3.18 of the PWS required the contractor to "develop a turnkey solution for data management storage across all efforts executed." PWS at 0151. That PWS provision further requires this database to "be available for 99% of the time" and contain all deliverables developed under the BPA and orders, which directly refutes the protester's contention that the solicitation does not require the contractor to give the agency access to the management systems. *Id.*

In evaluating the protester's quotation, the evaluators found that Battelle proposed the "use of several management systems for the different elements of the PWS instead of a single multi-use solution." AR, Tab 23, Battelle Factor 2 TET Report at 2762. Based on this finding, the evaluators concluded that Battelle's approach was inadequate because it "will require the use of multiple software leading to added training, software licenses, access control . . . , and maintenance (updates)." *Id.* Given that the PWS specifically

required a turnkey solution for data management storage for all executed efforts, we find reasonable the agency's conclusion that Battelle's approach presented a risk.

The protester also argues that the agency's conclusions were unreasonable because it uses a [DELETED] that would alleviate the need for added training and access control. Supp. Protest at 6, Comments at 21-22. However, as the agency notes, this additional information about access to management systems was not included in Battelle's quotation. See *generally*, AR, Tab 12, Battelle Factor 2 Quotation. Vendors are responsible for submitting a well-written quotation with adequately detailed information that allows for meaningful review by the procuring agency. *8 Consulting, LLC*, B-417471, July 9, 2019, 2019 CPD ¶ 250 at 5. Here, where Battelle's quotation included a list of its management systems without explaining how they meet the agency's requirement to "develop a turnkey solution for data management storage across all efforts," we find nothing unreasonable about the agency's conclusion that this aspect of Battelle's quotation presented a risk.

Personnel and Staffing Approach

Next, the protester contends that the agency's evaluation of its proposed task leads under the personnel and staffing approach factor was unreasonable and unequal. Specifically, the protester argues that the agency assessed a benefit to SAIC's proposed hardware task lead without assessing a similar benefit to Battelle's proposed hardware task lead with essentially the same experience. Comments at 25-26. Conversely, Battelle also argues that the agency assessed a risk to Battelle's proposed software task lead without assessing a similar risk to SAIC's proposed software task lead with similar qualifications. *Id.* at 26-29. We have fully considered all of the protester's arguments and conclude that none provide a basis to sustain the protest. We discuss one of them as an example.

In conducting procurements, agencies may not generally 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. When a protester alleges disparate treatment in a technical evaluation, it must show that the differences in the evaluation did not stem from differences between the vendors' quotations. *Id.*; *INDUS Tech., Inc.*, B-411702 *et al.*, Sept. 29, 2015, 2015 CPD ¶ 304 at 6. Accordingly, to prevail on an allegation of disparate treatment, a protester must show that the agency unreasonably failed to assess strengths for aspects of its quotation that were substantively indistinguishable from, or nearly identical to, those contained in other quotations. See *Battelle Memorial Inst.*, B-418047.3, B-418047.4, May 18, 2020, 2020 CPD ¶ 176 at 5. Based on our review of the record here, we find that the protester has not made such a showing.

The protester argues that the evaluators disparately assessed a benefit in SAIC's quotation, but not to Battelle's, for the qualifications of the proposed hardware task leads. Comments at 25-26. The protester contends that its proposed hardware task

lead possesses a similar, if not greater, level of the required knowledge and expertise. *Id.* We find that the record does not support the protester's assertions.

The solicitation required vendors to provide resumes for key personnel, task leads, and other similar high-level personnel that they expect to utilize in the performance of the BPA. RFQ at 1807. As relevant here, the PWS required the vendor to provide five acceptance testing task leads, including a test article hardware task lead and a software task lead. PWS at 0131-0133.

In terms of education and experience, the PWS specified that each task lead must possess: (1) a minimum of five years of project management experience; (2) a minimum of five years working with transportation security equipment testing and knowledge of the acceptance testing processes or similar; (3) a bachelor's degree; (4) a current secret level clearance, or the ability to receive one; and other task lead specific experience as defined in the applicable PWS sections. *Id.* at 0132. The PWS also provided that, "[o]n a case-by-case basis, the Government may consider other qualifications and experience in event that the [task lead] qualifications cannot be met." *Id.* For the specific position of a test article hardware task lead, the PWS required that the task lead "possess seven (7) years or more experience supporting complex integrated technologies/systems" and "experience on test article development, manufacturing, quality control, material testing and validation." *Id.* at 0133.

The record shows that the evaluators assessed one of several benefits in SAIC's quotation under the personnel and staffing approach factor for its proposed test article hardware task lead. AR, Tab 26, SAIC Factor 3 TET Report at 1. The evaluators found that SAIC's proposed hardware task lead has "extensive knowledge in the design of image quality test articles as well as image quality related standards which will be beneficial in aiding the government to enhance current and future designs." *Id.*

In response to the protest, the agency explains that the evaluators assessed a benefit to SAIC's proposed hardware task lead based on its finding that the proposed lead "would provide TSA with a unique range of knowledge and experience that will benefit the agency in developing, redesigning, and enhancing test articles to better test current and future equipment." Supp. MOL, attach. A, Supp. TET Chair Declaration at 1. The agency specifically notes as follows:

Among the many examples of this person's knowledge and experience that the TET found in SAIC's proposal were: a) his experience in designing and developing test articles such as the [modulation transfer function (MTF)] and Scatter test objects currently being used by the TSA in the TSA ANSI test kit, as well as designing a shield alarm phantom for Explosive Detection System (EDS) units; b) his experience in the development of the first full 3-D Computed Tomography (CT) system deployed at TSA; c) his major contributions to the development of the ANSI N42.45 standard for evaluating the image quality of CT-EDS; d) his work with a National Electrical Manufacturers Association working group;

e) his role in generating the initial version of the DICOS standard as well as revisions for the 2.0 version; and f) his participation in the TSA Explosive Certification Standards Team working with the latest version of explosive detection standards.

Id.; AR, Tab 20, SAIC Factor 3 Quotation at 2608-2612. The agency contends that the evaluators reasonably found this combination of “extensive knowledge and broad range of experiences” demonstrated by SAIC’s proposed hardware task lead to offer a unique benefit to the government. Supp. MOL at 7-8.

Battelle argues that its proposed hardware task lead also deserved to receive a benefit because he not only had the same list of knowledge and experience as SAIC’s proposed task lead, but, as part of the incumbent staff, also had superior knowledge and experience with the current equipment used by the agency. Supp. Comments at 11-12. The agency counters, however, that the evaluators reviewed the different set of qualifications of Battelle’s proposed hardware task lead and reasonably concluded that they met, but did not exceed, the requirements for the position. Supp. MOL at 7-8. Specifically, the agency notes that, while Battelle’s quotation for its proposed hardware task lead “demonstrated that person’s knowledge and experience in the design and development of test articles while working for” the incumbent Battelle, the evaluators reasonably determined that this element of Battelle’s quotation did not exceed the RFQ requirements in a beneficial way for the government. Supp. MOL, attach. A, Supp. TET Chair Declaration at 2. For example, although the resume of Battelle’s hardware task lead contained experiences and a skill set that qualified him for the position, he did not “bring[] an extra degree of unique knowledge and experience” that exceeded the requirements in the way that SAIC’s proposed hardware task lead’s resume did. Supp. MOL at 7-8.

We find the agency’s evaluation here to be unobjectionable. As stated, an agency’s judgment of whether to assess unique strengths is a matter within the agency’s discretion and one that we will not disturb where the protester has failed to demonstrate that the evaluation was unreasonable or inconsistent with the applicable evaluation criteria. *SMS Data Products Group, Inc., supra*; *Raytheon Co., supra*. The record supports the agency’s finding that the knowledge and experiences listed in Battelle’s quotation for its hardware task lead were, while certainly extensive, not as varied and broad in range as those listed for SAIC’s hardware task lead. See AR, Tab 20, SAIC Factor 3 Quotation at 2608-2612; Tab 13, Battelle Factor 3 Quotation at 2221-2223. On this record, we find reasonable the agency’s conclusion that the breadth of knowledge and experience of SAIC’s proposed task lead constituted an element of the awardee’s quotation that exceeded the RFQ requirements. Accordingly, the protester’s allegation of disparate treatment fails, as Battelle has not shown that the agency unreasonably failed to assess a benefit for an aspect of its quotation that was substantively indistinguishable from, or nearly identical to, that contained in the awardee’s quotation. See *Battelle Memorial Inst., supra*.

Waiver of Material Solicitation Requirement--Travel Costs

The protester also alleges that the agency waived or relaxed a material solicitation requirement in its evaluation of SAIC's price quotation without giving Battelle an opportunity to compete on an equal basis. Battelle's allegation is based entirely on its belief that SAIC was able to offer its low price--less than half that proposed by Battelle--by pricing certain "with-travel" tasks in a way that was contrary to the requirements of the solicitation. Comments at 2-10. On this belief, Battelle also contends that the agency erred when it found SAIC's quotation to be technically acceptable notwithstanding the non-compliant pricing of the with-travel tasks. *Id.*

Under the price factor, the solicitation required vendors to complete the price proposal template, labor categories and rates table, and pricing schedule, all of which were provided as attachments to the RFQ. RFQ at 1807. The RFQ instructed vendors to ensure that numbers are consistent throughout the entire price proposal template, including the unit price build up worksheet within the pricing schedule. *Id.* at 1807-1808. The unit price build up worksheets were "intended to show the basis of estimate/'build up' of the pricing for each task and must include travel, materials, etc. as appropriate." *Id.* at 1808.

As noted, the RFQ informed vendors that the agency would evaluate vendors' proposed prices to determine if they were fair and reasonable for the work to be performed in accordance with FAR section 12.209. *Id.* at 1811. The RFQ also provided that the agency may use, as part of its evaluation under the technical factors, the basis of estimate and proposed labor categories provided on the vendor's unit price build up. *Id.*

As relevant here, the pricing schedule, provided as attachment ATSS-1 to the RFQ, listed out seven contract line item numbers (CLIN), with numbered tasks listed under each CLIN. See AR, Tab 1, RFQ, attach. ATSS-1, Pricing Schedule at 0112-0115. The numbered tasks corresponded to specific numbered tasks described in the PWS. See *id.*; PWS at 0126-0171. For the twenty-four tasks listed under CLIN 0003, Acceptance Testing Execution, numbered A-25 through A-48, the agency designated two separate task numbers to the same task, one designated as "with travel" and the other as "no travel." AR, Tab 1, RFQ, attach. ATSS-1, Pricing Schedule at 0114-0115. For example, task A-25 was designated "[check point (CP)]-[check baggage (CB)]-[factory acceptance testing (FAT)]-Tier I (With Travel)" and task A-26 was "CP-CB-FAT-Tier I (No Travel)." *Id.* at 0114. The PWS explained these designations as follows:

Test Event tasks listed as "with travel" include test execution, as well as travel costs (e.g. airfare and per diem), and travel labor on the task. Please note that most travel will be to an OEM factory and generally the schedule will be known well in advance to facilitate planning. Test Event tasks listed as "no travel" include only the test execution.

PWS at 0153. The PWS further described task A-26 as “[s]ame as task A-25, but does not include travel,” noting that the agency’s “[i]ntention is to use this task when multiple tests can be done with a single trip and/or for virtual or remote tests.” *Id.* at 0154.

The record shows that SAIC’s price quotation included the following assumption:

For ATSS test execution (CLIN 003 tasks A-25 through A-48), SAIC assumes that test events will be combined whenever feasible to maximize efficiencies between travel and actual test time. We modeled the testing labor to accommodate [DELETED] and to support test event durations based on [DELETED] to support the work contemplated by the RFP.

AR, Tab 27, Price Evaluation Report at 2780, *citing* AR, Tab 18, SAIC Phase II Cover Letter at 2514. With each of the “with travel” line items in the pricing schedule, SAIC also included the following notation:

Travel-related economies of scale achieved by determining [DELETED]. This includes time spent traveling to/from test sites. We also applied just in time resources geographically dispersed near test site locations as applicable.

AR, Tab 21, SAIC Price Quotation at 2668-2671.

The PET considered SAIC’s assumptions and found them to be acceptable as far as they related to pricing, but noted that the price evaluators did not evaluate “whether or not this assumption is technically acceptable.” AR, Tab 27, Price Evaluation Report at 2780. The record also shows that the TET, after it completed its evaluation under the non-price factors, separately considered the technical acceptability of SAIC’s pricing scheme with respect to the “with travel” CLINs. AR, Tab 28, SSEB Consensus Evaluation Report at 2786. The SSEB noted that “SAIC’s approach to travel only became apparent when the proposed pricing was provided to the TET.” *Id.* After this review, the TET not only found SAIC’s approach to be technically acceptable, but also determined that it mitigated a risk that the TET had identified in SAIC’s quotation under the management, planning, and technical execution factor about SAIC’s understanding of the “with travel” and “no travel” tasks. *Id.*

Battelle first argues that the agency waived a material solicitation requirement by allowing SAIC to propose no travel costs or travel labor hours for the with-travel tasks. The protester’s argument, however, is not borne out by the record, as both the awardee’s price quotation and the agency’s evaluation of it show that SAIC did include labor hours and expenses for travel for the with-travel tasks. See AR, Tab 21, SAIC Price Quotation at 2668-2671; Tab 27, Price Evaluation Report at 2774. While the protester appears to take issue with the fact that SAIC proposed travel labor hours and expenses that were far lower than those Battelle proposed, it notably does not cite to any solicitation provision that provides any limits or restrictions on minimizing travel hours and expenses. On the contrary, the record shows that the agency specifically

asked vendors to demonstrate how they will “minimize travel and Other Direct Costs.” AR, Tab 7, Phase II Questions at 1928. Therefore, we find no merit to the protester’s argument that the agency waived or relaxed a solicitation requirement in accepting SAIC’s approach to minimizing travel expenses and travel-related labor hours.

Moreover, in arguing that the agency should have rejected SAIC’s quotation as technically unacceptable for proposing too low a price for the with-travel tasks, the protester essentially argues that the agency should have conducted a price realism analysis. As noted, the solicitation stated that the agency would evaluate vendors’ prices to determine whether they were fair and reasonable for the work to be performed in accordance with FAR section 12.209. RFQ at 1811. While the solicitation also provided that the agency may use the basis of estimate and proposed labor categories as part of its evaluation under the technical factors, it did not expressly state that the agency would review prices to determine whether they were too low or that a quotation could be rejected for offering low prices. *Id.* We also note that the task CLINs with the “with travel” and “no travel” notations were also designated as fixed-price items. See AR, Tab 1, RFQ, attach. ATSS-1, Pricing Schedule at 0114-0115.

The purpose of a price realism analysis is to determine whether prices are too low, such that there may be a risk of poor performance, or to confirm a vendor’s understanding of the requirements of the solicitation. FAR 15.404–1(d); *C.L. Price & Assocs., Inc.*, B-403476.2, Jan. 7, 2011, 2011 CPD ¶ 16 at 3. However, as our office has previously found, absent a solicitation provision advising vendors that the agency intends to conduct a price realism analysis, agencies are neither required nor permitted to conduct such an analysis in awarding a fixed-price contract or issuing a fixed-price order. See *People, Technology and Processes, LLC*, B-418781.4, July 2, 2021, 2021 CPD ¶ 252 at 4; *DynCorp Int’l LLC*, B-407762.3, June 7, 2013, 2013 CPD ¶ 160 at 9. Because the solicitation here did not expressly provide for a price realism analysis, the agency was not required, and indeed was not permitted, to conduct one.

In light of the record showing that SAIC did propose travel labor hours and expenses, albeit significantly lower than the ones proposed by Battelle, for “with travel” task items, we find no basis to question the agency’s judgment in finding SAIC’s approach to travel to be technically acceptable. As noted, the solicitation specifically asked vendors to propose ways to minimize travel and other ODCs. See AR, Tab 7, Phase II Questions at 1928. Contrary to the protester’s contentions, the record shows that the SSEB considered the technical ramifications of SAIC’s pricing scheme with respect to the “with travel” CLINs. Specifically, the SSEB concludes that the considerable difference between the two vendors’ prices “can be explained by the different labor mix and the different approach to travel that SAIC utilized compared to Battelle.” AR, Tab 28, SSEB Consensus Evaluation Report at 2784. With respect to SAIC’s approach to travel, the SSEB further notes that:

Essentially, SAIC has proposed utilizing just in time resources geographically dispersed near test sites locations in order to reduce the costs of travel, and unlike Battelle, did not include travel labor hours. That is, labor hours spent traveling to and from test sites. Overall, this has reduced SAIC's price when compared to Battelle.

Id. at 2785. As discussed above, the SSEB concluded not only that this approach is technically acceptable, but also that it mitigates a risk that the TET identified when evaluating SAIC's technical quotation without the benefit of its pricing scheme. *Id.* at 2786. We find nothing in the record to question the agency's judgment in this regard.

Remaining Allegations

The protester also challenges the agency's evaluation of SAIC's quotation under the personnel and staffing approach factor. Protest at 17-19; Supp. Protest at 11-13; Comments at 12-17, 28-31. However, based on our conclusion that the agency reasonably evaluated Battelle's quotation, and that the agency did not impermissibly waive or relax a material solicitation requirement in its evaluation of SAIC's price, we find that Battelle is not an interested party to pursue its remaining challenges regarding the evaluation of SAIC's quotation.

A protester is not an interested party to challenge the evaluation of the awardee's quotation where it would not be in line for contract award were its protest to be sustained. Bid Protest Regulations, 4 C.F.R. § 21.0(a)(1); see *Empirical Concept, Inc.*, B-415213, Dec. 6, 2017, 2017 CPD ¶ 377 at 6.

Here, the record reflects that there was an intervening vendor (Vendor A) with a price that is nearly 50 percent lower than Battelle's, with the same non-price factor ratings as Battelle's. AR, Tab 28, Consensus Evaluation Report at 2783. As noted, the agency conducted a comparative analysis of the three vendors' quotations, including Vendor A, and concluded that they were technically equal. *Id.* at 2784. In light of this conclusion, Vendor A, rather than Battelle would be next in line for contract award since Vendor A has the same non-price factor ratings as Battelle, but with a lower price. In addition, as noted, the protester does not challenge the agency's evaluation of this intervening vendor's quotation. Accordingly, we find that Battelle is not an interested party to maintain its remaining challenges to the agency's evaluation of SAIC's quotation or the selection decision since even if we were to sustain Battelle's remaining challenges, Vendor A, rather than Battelle, would be next in line for award. As a result, we dismiss the remaining protest grounds.

The protest is denied in part and dismissed in part.

Edda Emmanuelli Perez
General Counsel