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Decision

Matter of: Credence Management Solutions, LLC

File: B-420408; B-420408.2

Date: March 18, 2022

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DIGEST

1. Protest alleging that the agency unreasonably declined to accept the protester's proposed pricing discount is denied because the agency's decision was consistent with the terms of the solicitation and within its discretion; alternatively, the protester's contrary interpretation of the solicitation is based on a patent ambiguity, and the protester's post-award challenge constitutes an untimely challenge to the terms of the solicitation.

2. Protest alleging that the agency's evaluation of proposals was unreasonable and unequal is denied where the record demonstrates that the agency's evaluation was reasonable and in accordance with the terms of the solicitation.

DECISION

Credence Management Solutions, LLC, a small business of Vienna, Virginia, protests the issuance of an order to OBXtek, Inc., a small business of McLean, Virginia, under fair opportunity proposal request (FOPR) No. RFQ 1393083, which was issued by the Department of the Air Force, for Air Force Special Operations Command (AFSOC) aircrew instruction support for the 492 Special Operations Wing (SOW) and Operational Units MC-130J and CV-22. Credence challenges the agency's evaluation of proposals, and resulting award decision.

We deny the protest.

BACKGROUND

The FOPR, which was issued on October 7, 2019, and subsequently amended five times, sought proposals from holders of General Services Administration (GSA) One Acquisition Solution for Integrated Services (OASIS) multiple-award, indefinite-delivery, indefinite-quantity contracts for the award of an order to provide AFSOC aircrew instruction support. Agency Report (AR), Tab 5, FOPR amend. No. 2, at 3.¹ The contractor will provide fixed wing aircrew instruction, fixed wing flight instruction, remotely piloted aircraft instruction, aircrew instruction, fixed wing simulator instruction, and weapon system leads instruction. *Id.* at 30. Services will be provided at: Hurlburt Field, Florida; Duke Air Field, Florida; Cannon Air Force Base, New Mexico; Royal Air Force, Mildenhall, United Kingdom; and Yokota Air Base, Japan. *Id.*

The FOPR anticipated the award of an order with fixed-price and cost-reimbursable contract line item numbers (CLIN), with a 12-month base period of December 2, 2021 through December 1, 2022, and a 12-month option period. *Id.* at 42. The FOPR, however, further provided that the 12-month base period would include two, 30-day transition periods. *Id.* at 19. In transition phase I, which would begin on December 2, 2021, and last for 30 calendar days, the contractor would perform all preliminary work to obtain phase II operational capability by January 1, 2022, including, for example, completing contract data requirement list requirements and badging. *Id.* at 36. Phase II, which was to commence on January 1, 2022, and last for 31 calendar days, will require the contractor to staff all locations inside the continental United States (CONUS) at 85 percent or above and locations outside of the continental United States (OCONUS) at 50 percent or above. *Id.* The contractor will be required to fully staff all locations by the end of the phase II transition period. *Id.*

Award was to be made on a best-value tradeoff basis, considering two factors: (1) technical capability and (2) price (with technical capability considered more important than price). *Id.* at 18. The technical capability factor included three subfactors, which are listed in ascending order of importance: (i) mobilization/transition plan; (ii) development of ground/flight operations procedures; and (iii) recruiting, hiring, training, and retention. *Id.*

Relevant to the issues presented in this protest, as to subfactor ii, development of ground/flight operations procedures, offerors were required to provide a sample ground/flight operations plan in accordance with the performance work statement's requirements, and Defense Contract Management Agency (DCMA) Instruction 8210.1C change 1, Contractor's Flight and Ground Operations. *Id.* at 14. The FOPR provided that the requirement would be met if the offeror's proposal contained sample ground/flight operations procedures that clearly demonstrated the ability to perform ground/flight operations in accordance with DCMA Instruction 8210.1C change 1. *Id.*

¹ References herein to page numbers of agency report exhibits are to the Bates numbering provided by the agency.

at 22. The FOPR further provided that strengths may be identified if: (1) the sample ground/flight operations procedures clearly demonstrated an ability to perform in accordance with Air Force Instruction (AFI) 10-220, Contractor's Flight and Ground Operations, and associated AFIs; and (2) the plan was an actual approved plan written in accordance with the DCMA Instruction. *Id.*

As to subfactor iii, recruiting, hiring, training, and retention, offerors were required, among other things, to address their proposed approaches to recruiting, hiring, training, and retaining personnel. Offerors were required to address how their respective approaches will meet or exceed contract requirements while experiencing workforce turnover, and how proposed vacancy credits would be successfully integrated into the overall effort to recruit, hire, train, and retain personnel. *Id.* at 15. Additionally, offerors were required to provide specific recruiting, hiring, and retention plans for the Cannon Air Force Base area and OCONUS locations. *Id.*

The FOPR provided that the above requirements would be met if the proposal addressed the associated provisions in the performance work statement and demonstrated a reasonable approach to continuously providing sufficiently qualified personnel who have the required security clearances, education, experience and certifications while minimizing employee turnover. *Id.* at 22. The FOPR further provided that strengths could be identified if: (i) the plan provided an exceptional or innovative approach or both for hiring and retention for the Cannon Air Force Base area or OCONUS locations; and (ii) the vacancy credit formula narrative described an exceptional or innovative approach or both for how the vacancy credit formula proposed will successfully integrate into the overall effort to recruit, hire, train, and retain personnel. *Id.* at 23.

As to price, offerors were required to submit a completed version of a document called the "Price Proposal Workbook," which was included as FOPR attachment No. 3. *Id.* at 16. The Price Proposal Workbook automatically calculated offerors' total proposed prices based on the fully burdened labor rates the offerors' proposed and OCONUS cost-reimbursable estimates. *Id.* at 24; Tab 10, Price Proposal Workbook at "Instructions" tab. Price was to be evaluated for completeness, balance, reasonableness, and professional compensation plan realism. AR, Tab 5, FOPR amend. No. 2 at 24.

The Air Force ultimately received four proposals in response to the solicitation, including from Credence and OBXtek.² Contracting Officer's Statement (COS) at 10. The agency evaluated the final proposals of the protester and intervenor as follows:

² The agency had previously issued an earlier version of the solicitation under a different solicitation number and had received seven proposals. Following an initial award and subsequent protest with our Office, the agency took corrective action and reissued this new FOPR for the same requirements to the original seven offerors. See COS at 2.

	Credence	OBXtek
Technical Subfactor 1 – Mobilization/Transition Plan	Acceptable	Acceptable
Technical Subfactor 2 – Development of Ground/ Flight Operations Procedures	Outstanding	Outstanding
Technical Subfactor 3 – Recruiting, Hiring, Training & Retention	Good	Good
Total Evaluated Price	\$71,183,361	\$70,241,130

AR, Tabs 17 and 18, Fair Opportunity Decision Doc. at 9, 18 (prices rounded to nearest whole dollar).³

In addition to receiving the same adjectival ratings, the record reflects that the two offerors essentially received the same underlying evaluated strengths. Specifically, under subfactor 2, development of ground/flight operations procedures, both offerors received two strengths because each offeror: (1) provided sample ground/flight operations procedures clearly demonstrating an ability to perform in accordance with required instructions and applicable service guidance; and (2) both offered a version of an approved plan. *Compare* AR, Tab 17, Fair Opportunity Decision Doc. at 12 *with* Tab 18, Fair Opportunity Decision Doc. at 14.

Similarly, each offeror received a strength for their proposed approach to employee recruitment and retention at Cannon Air Force Base and OCONUS. *Compare* AR, Tab 17, Fair Opportunity Decision Doc. at 13 *with* Tab 18, Fair Opportunity Decision Doc. at 15. Based on the results of the non-price evaluation and OBXtek's lower proposed price, the source selection official selected OBtek's proposal for award. AR, Tab 18, Fair Opportunity Decision Doc. at 39-40. Following a debriefing, this protest followed.⁴

DISCUSSION

The record reflects that this was an extremely close competition; both offerors received the same top-level adjectival ratings and nearly identical evaluated underlying strengths, with the total evaluated prices being within two percent of each other. Given the closeness of the competition, Credence challenges nearly every aspect of the agency's evaluation. First, the protester attempts to dislodge OBXtek's price advantage.

³ Notwithstanding that our Office issued--and the protester and intervenor retained counsel that were admitted to--a protective order, the agency elected to prepare redacted party-specific versions of the award decision. When it is not possible to cite to a single version of the document, our Office will cite to both versions (AR Tabs 17 and 18).

⁴ The protested order is valued at more than \$10 million and was issued under GSA's OASIS multiple-award contract. Accordingly, our Office has jurisdiction to consider the protest. 41 U.S.C. § 4106(f).

Specifically, Credence argues that the agency unreasonably declined to consider a discount Credence proposed that was in excess of \$[DELETED] million for what Credence contends is the first month of performance of the resulting order. This alleged discount stems from the fact that the first month of contract performance overlaps with the last month of Credence's performance under the incumbent contract. The protester contends that had the agency reasonably considered the offered discount, Credence's total evaluated price would have been below the awardee's price.

Next, the protester argues that the agency unreasonably evaluated offerors' non-price proposals, alleging, among other errors, that the agency (i) failed to properly assess aspects of Credence's proposal as warranting additional strengths, (ii) should have evaluated OBXtek's proposed vacancy credit as warranting a deficiency or significant weakness, and (iii) disparately evaluated proposals. But for these errors, the protester contends that its proposal reasonably would have been evaluated as both lower-priced and technically superior, and, therefore, would have been found to have provided the best value to the government. For the reasons that follow, we find no basis on which to sustain the protest.⁵

Credence's Proposed Price

Credence first challenges the agency's decision not to consider its proposed discount. Specifically, the protester contends that the FOPR established a base year period of performance of December 2, 2021 through December 1, 2022. As set forth above, the FOPR provided that the base year was 12 months, with an anticipated performance period of December 2, 2021 through December 1, 2022. The FOPR also provided, however, that the base year included two transition periods. Transition phase I, which was scheduled for December 2, 2021 through December 31, 2021, would require the contractor to perform all administrative tasks in order to allow it to commence operational capability by the beginning of transition phase II. Transition phase II, which was scheduled to commence on January 1, 2022, would require the contractor to assume at least partial operational capability by January 1, and full operational capability by January 31.

The protester argues that it reasonably proposed to begin operational performance at the start of the phase I transition period on December 2, 2021, rather than waiting to commence operational capability at the beginning of transition phase II, which was scheduled to commence on January 1, 2022, at no cost to the government. Credence argues that, given the FOPR's stated base year period of performance beginning on December 2, 2021, it was unreasonable for the government to reject Credence's proposal to commence performance during the phase I transition period at what amounts to a discount in excess of \$[DELETED] million.

⁵ The protester raises a number of collateral arguments. Although our decision does not address each of these arguments, we have reviewed all of the protester's allegations and find that none provides a basis on which to sustain the protest.

The Air Force responds that it reasonably rejected Credence's proposed modification to the FOPR's established schedule. In this regard, the agency explains that the FOPR established a phase I transition period between December 2 through December 31, 2021. During this period, the contractor would prepare to assume operational capability by January 1, 2022. The Air Force argues that since Credence was contractually obligated to perform on its incumbent contract during the phase I transition period of the resulting order, the agency reasonably declined the protester's proposal to assume performance requirements under the resulting order earlier than anticipated by the FOPR's terms. We agree with the agency.

The solicitation, by its terms, indicated that the contractor would perform solely administrative work during the phase I transition period. AR, Tab 5, FOPR, amend. No. 2 at 36. (explaining that the phase I transition, which would begin on December 2, 2021, and last 30 calendar days, would consist of all preliminary work to obtain phase II operational capability by January 1, 2022, including contract data requirement list submissions, and badging). No actual performance was to be performed during the phase I transition period of December 2 through December 31, 2021, because, as explained by the agency and reflected by the record, the work for that period of time was committed to be performed and paid for under the terms of the incumbent contract.

In this regard, the FOPR anticipated that the contractor under the resulting order would be responsible for at least partial operational capability during the phase II transition period (January 1 through January 31, 2022), and assuming full operational capability by the end of the phase II transition. Setting aside that the solicitation did not contemplate the performance of work during the phase I period, because the agency was already committed to have the work performed under the incumbent contract, the agency argues it gained no advantage by having Credence accelerate performance for that period. COS at 28. The agency contends further that to the extent Credence was itself the incumbent contractor, its offer to accelerate performance at no cost without a concomitant agreement to forgo payment under its incumbent contract was, in essence, just an offer to do what it was already contractually obligated to do and therefore illusory. *Id.*

Credence counters that, notwithstanding the separate transition phases established by the FOPR, the base year of performance was defined as 12 months, and specifically required offerors to price a full year of base year labor for the period of December 2, 2021 through December 1, 2022. Thus, according to Credence, the agency cannot claim that the solicitation did not contemplate or otherwise prohibited operational performance from the contractor during the first month of the contract. *See, e.g.,* Credence's Comments & Supp. Protest at 17-19. For the reasons that follow, however, we conclude that the protester's contrary interpretation is based on a patent ambiguity in the terms of the solicitation. As such, Credence's arguments amount to untimely challenges to the terms of the solicitation, and, do not provide a basis to challenge the agency's alternative application of the solicitation provisions.

Our Bid Protest regulations contain strict rules for the timely submission of protests. Our timeliness rules specifically require that a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals be filed before that time. 4 C.F.R. § 21.2(a)(1); *Sikorsky Aircraft Corp.*, B-416027, B-416027.2, May 22, 2018, 2018 CPD ¶ 177 at 6. A patent solicitation ambiguity exists where the solicitation contains an obvious, gross, or glaring error. *International Bus. Machines Corp.*, B-417596.10, Mar. 17, 2021, 2021 CPD ¶ 127 at 15. An offeror has an affirmative obligation to seek clarification of a patent ambiguity prior to the first due date for submissions responding to the solicitation following introduction of the ambiguity into the solicitation. 4 C.F.R. § 21.2(a)(1); *Pitney Bowes, Inc.*, B-294868, B-294868.2, Jan. 4, 2005, 2005 CPD ¶ 10 at 5.

Where a patent ambiguity exists but is not challenged prior to the submission of solicitation responses, we will not consider subsequent untimely arguments asserting the protester's own interpretation of the ambiguous provisions. *FFLPro, LLC*, B-411427.2, Sept. 22, 2015, 2015 CPD ¶ 289 at 10. In this regard, we have repeatedly explained that where a protester fails to challenge an obviously flawed evaluation scheme, including a price evaluation scheme, prior to the time for receipt of initial proposals or quotations, we will consider a post-award challenge to the scheme as untimely. *DynCorp Int'l LLC*, B-411465, B-411465.2, Aug. 4, 2015, 2015 CPD ¶ 228 at 10; *NaphCare, Inc.*, B-406695, B-406695.2, Aug. 3, 2012, 2012 CPD ¶ 246 at 8-9; *Ball Aerospace & Techs. Corp.*, B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 5.

Here, it is readily apparent that the FOPR's price evaluation methodology was internally inconsistent and the protester's offered discount sought to exploit the inconsistency in a manner not contemplated by the solicitation. The inconsistency stems from the fact that the solicitation contemplated a 12-month base period of performance, which consisted of two 1-month transition periods, plus ten months of full performance. AR, Tab 5, FOPR, amend. No. 2 at 19 (providing that the order would include a "12-Month Base Period (*including 60-day Transition/Mobilization*)") (emphasis added). For the purpose of submitting prices, the solicitation required firms to separately price the two transition periods. AR, Tab 8, FOPR amend. No. 5, attach. No. 3, Pricing Proposal Workbook at 6 (requiring offerors to price the phase I transition under CLIN X013 and the phase II transition under CLIN X014). The solicitation also required offerors to submit pricing for the remaining period of full contractor performance--the period of performance after transition. *Id.* (requiring offerors to price base year labor under CLIN X001).

The patent ambiguity arises from the fact that the solicitation required offerors to calculate the post-transition period of performance as though the contractor was performing for a full-year (1,872 hours), instead of just the remaining 10-months. In this regard, the FOPR defined the number of hours to be worked by a full-time equivalent (FTE) during a 12 month period as 1,872 hours. AR, Tab 6, FOPR amend. No. 3 at 7; Tab 8, FOPR amend. No. 5, attach. No. 3 Price Proposal Workbook at 9. This had the effect of adding in the cost of full performance during the transition periods, even though, as explained above, the solicitation also stated that the contractor would only perform administrative tasks during the first 30 days of the contract.

The glaring nature of the problem with the solicitation's pricing requirement is reflected in Credence's own proposal, which explicitly recognized this issue. Specifically, the protester, after explaining that it was complying with the FOPR's admonishment not to make unauthorized changes to the Pricing Proposal Workbook, noted that CLIN X001:

[R]equires offerors to use 1872 hours for CLIN X001 Labor for the Base Year with a specified period of performance of "2 December 2021 through 1 December 2022." The resulting price total in cell D60 is carried over to the Overall Price tab cell C5. This total represents an offeror's Fully Burdened Labor rates (FBLRs) multiplied by 1872 hours or the equivalent of 12 months of performance and price. Any separately entered Transition amounts for Phase I (cell C3) or Phase II (cell C4) would result in double counting amounts already contained in CLIN X001 (cell C5) because the Transition occurs within the 12-month Base Year period.

AR, Tab 11, Credence Proposal, at 126.

Thus, Credence itself contemporaneously recognized that the Pricing Proposal Workbook, which required 1,872 hours for the base year of labor, was inconsistent with the fact that two months of the base period were covered by separately priced transition periods, one of which, per the terms of the solicitation, did not contemplate any substantive performance.⁶

⁶ We also note that the solicitation's price evaluation approach also failed to account for potentially differing staffing approaches during the phase II transition period. In this regard, accepting the Air Force's position that it did not want the incoming contractor to assume any operational performance during the phase I transition, the FOPR also contemplated less than full performance during the phase II transition period. Specifically, the offeror was required at the start of the phase II transition period to staff "at least" 85 percent of CONUS positions and 50 percent of OCONUS positions. AR, Tab 5, FOPR, amend. No. 2 at 36. This use of the phrase "at least" indicated that offerors could offer higher staffing levels, but were not required to do so.

The solicitation, however, established that the agency would use 1,872 hours (reflecting 12-months of performance for an FTE) as the basis of calculating offerors' proposed base year labor pricing. The use of 1,872 hours for 12 months of performance created a patent ambiguity in the solicitation because (1) no offeror would incur direct labor (as opposed to transition-related) costs during the phase I transition period, and (2) offerors did not need to be at full staffing levels during the phase II transition period. As to the latter point, normalizing all offerors' hours to a common labor staffing baseline could potentially mask differences in the level of staffing that the government would obtain during the phase II transition period, such that an offeror providing full performance during the phase II option period would be at a competitive disadvantage to an offeror providing less staffing (85 percent CONUS and 50 percent OCONUS) during that same

Credence's proposed discount further highlighted the tension between the FOPR's defined base year of December 2, 2021 – December 1, 2022, and the interaction with the defined transition periods. Specifically, the protester proposed that:

Additionally, the proposed CLIN X013 Transition Phase I (2 December 2021 – 31 December 2021) is an overlap with the current incumbent contract. Therefore, Team Credence proposes no hours or cost for this first month of the contract, thereby reducing the person-hours per [CME] by 156 from 1872 to 1716, the equivalent of 11 months of performance for the Base Year only starting January 1, 2022. . . . Credence is willing to offer the Government this additional \$[DELETED] discount *should the period of performance of the base year remain as stated "2 December 2021 through 1 December 2022."*

AR, Tab 11, Credence Proposal at 126 (emphasis added).

As recounted above, however, Credence clearly understood that the Pricing Proposal Workbook required offerors to both propose pricing for 1,872 base year labor hours, while also requiring separate overlapping pricing for the two transition periods. Additionally, the protester's offer to move up performance requirements from the start of the phase II transition period to the beginning of the administrative phase I transition period was inconsistent with the limited scope of the contractor's performance during the phase I transition period. As the record demonstrates, the FOPR was internally inconsistent with respect to the pricing and performance of the transition periods and Credence understood as much. Because Credence did not timely challenge the patent ambiguity, its subsequent protest, which is based on one of the alternative interpretations is itself untimely and is dismissed. 4 C.F.R. § 21.2(a)(1); *The SI Org., Inc.*, B-410496, B-410496.2, Jan. 7, 2015, 2015 CPD ¶ 29 at 13.

Evaluation of Non-Price Proposals

Credence raises a number of additional challenges to the agency's evaluation of proposals. When reviewing a protest challenging an agency's evaluation, we do not reevaluate proposals, nor substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. *L3 Security & Detection Sys., Inc.*, B-417463, B-417463.2, July 8, 2019, 2019 CPD ¶ 248 at 4. Rather, we will review the record to determine whether the evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. *Computer World Servs. Corp.*, B-410513, B-410513.2,

period. As with the principal argument addressed above, however, this additional basis to object to the FOPR's price evaluation methodology, which was or should have been apparent from the face of the FOPR, is untimely at this juncture. *DRS Tech. Servs., Inc.*, B-411573.2, B-411573.3, Nov. 9, 2015, 2015 CPD ¶ 363 at 9.

Dec. 31, 2014, 2015 CPD ¶ 21 at 6. As the following representative examples reflect, we find no merit to the allegations and, therefore, deny the protester's challenges.

For example, the protester alleges that the agency erred when it did not assess a significant weakness or deficiency for OBXtek's proposed vacancy credit approach. In support of its allegation, Credence infers that the awardee's proposed approach must have been materially flawed, not understood by the agency, or both because (1) the agency requested a private meeting with OBXtek to discuss its vacancy credit following a post-award meeting conducted among representatives of the agency, OBXtek, and Credence, and (2) OBXtek representatives during a post-award meeting asked Credence representatives about the firm's approach to vacancy credits.

Notwithstanding Credence's supposition and *innuendo*, the record reflects that OBXtek's vacancy credit approach--which it is currently utilizing on another AFSOC contract--is straightforward and unambiguous. Specifically, the awardee proposed that its vacancy credit process "gives the government back the cost of a vacant position for each day unfilled without exception." AR, Tab 9, OBXtek Proposal at 102-103. The proposal further explains that "[t]he lost workdays are multiplied by 8 hours per day and multiplied by the [labor category] base rate to determine the reduced amount that will be invoiced for that month." *Id.* at 103; *see also id.* (providing an exhibit demonstrating vacancy credit calculations). Absent any credible argument from Credence showing how this unequivocal arithmetic formula is ambiguous or otherwise defective, the protester's inferences are without merit.⁷

Credence also alleges that the Air Force unreasonably credited the OBXtek proposal with a strength under the development of ground/flight operations procedures subfactor for submitting an approved plan. The protester contends that the award of a strength was unreasonable because the submitted approved plan was from one of the awardee's proposed subcontractors, as opposed to from OBXtek as the prime contractor. We do not find that the FOPR restricted proof of an approved flight plan only to the prime offeror.

We have recognized that, absent an express prohibition, an offeror generally may demonstrate compliance with certification or licensing requirements through a subcontractor or teaming arrangement. *See, e.g., Dalma Tech² Co.*, B-411015, Apr. 22, 2015, 2015 CPD ¶ 135 at 6; *Advanced Env't'l Solutions, Inc.*, B-401654, Oct. 27, 2009, 2010 CPD ¶ 7 at 4; *Advant-EDGE Solutions, Inc.*, B-400367.2, Nov. 12, 2008, 2008 CPD ¶ 210 at 3. The FOPR here merely stated that "[a] Strength may be identified if the plan is an actual approved plan written in accordance with the DCMA Instruction." AR, Tab 5, FOPR, amend. No. 2 at 22. Absent a clear indication that the

⁷ To the extent Credence speculates that OBXtek will not perform in accordance with its proposed vacancy credit, such arguments raise matters of contract administration, which our Office does not review as part of its bid protest function. 4 C.F.R. § 21.5(a); *Mission1st Grp., Inc.*, B-419369.2, Jan. 25, 2021, 2021 CPD ¶ 65 at 7.

requirement could only be satisfied by the prime offeror, we decline to interpret the FOPR in such a restrictive manner.

Credence also raises a constellation of arguments alleging that the agency unreasonably evaluated offerors' proposed approaches to employee recruitment and retention and benefits. For example, the protester first alleges that its proposal warranted two unique strengths because its targeted employee awards were evaluated as being beneficial to recruitment and retention both at Cannon Air Force Base and OCONUS. See AR, Tab 17, Fair Opportunity Decision Doc. at 13. Credence contends that because its awards program applies both at Cannon Air Force Base and OCONUS, the agency unreasonably only awarded a single strength for this aspect of the proposal. This argument fails to provide a basis on which to sustain the protest for at least two independent reasons.

First, 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 Grp., 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. We find no basis to object to the agency's decision that this specific feature of Credence's proposal, which applies both to staff at both Cannon Air Force Base and OCONUS, only warranted a single evaluated strength.

Second, even assuming for the sake of argument that Credence's proposal in fact warranted two unique strengths, the protester cannot establish any possibility of competitive prejudice because OBXtek's proposal was similarly evaluated by the Air Force. Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding competitive prejudice, and our Office will not sustain a protest, even if deficiencies in the procurement are found. *Equinoxys, Inc.*, B-419237, B-419237.2, Jan. 6, 2021, 2021 CPD ¶ 16 at 6.

The awardee similarly received a strength for its proposed total compensation packet plus (TCP+) benefits, which "adds tiered-financial incentive to [OBXtek's] competitive Total Compensation Plan for [its] aircrew instructors supporting the 492 SOW at Cannon [Air Force Base] and OCONUS." AR, Tab 9, OBXtek Proposal, at 105 (emphasis added). As with Credence's evaluated strength for its targeted incentives for instructors at Cannon Air Force Base and OCONUS, the evaluators similarly credited OBXtek's proposal for providing targeted incentives for "instructors at Cannon [Air Force Base] and OCONUS locations" with a single strength for its "exceptional and/or innovative approach for hiring and retention concept(s) for the Cannon Air Force Base area or OCONUS locations." AR, Tab 18, Fair Opportunity Decision Doc. at 15. Thus, the agency similarly evaluated a single strength for both offerors' proposed targeted employee bonus plans that the agency found would be beneficial to recruitment and retention both at Cannon Air Force Base and OCONUS. Therefore, the record reflects

that the agency treated both the awardee and the protester in a similar fashion by awarding a single strength.

Credence next alleges that the agency engaged in disparate treatment when it evaluated a strength for OBXtek's proposed employee benefits, while not also assessing a strength for the protester's allegedly similar proposed benefits. This argument is without merit. As addressed above, OBXtek was awarded a strength for its targeted TCP+ compensation because this approach was deemed beneficial to recruitment and retention at Cannon Air Force Base and OCONUS. Contrary to the protester's arguments, however, OBXtek was not awarded a strength for its general employee benefits, which Credence argues are materially indistinguishable from the protester's general proposed benefits. Therefore, the protester conflates OBXtek's general employee compensation--which was not the basis for the evaluated strength--with OBXtek's more targeted TCP+ compensation for instructors at Cannon Air Force Base and OCONUS--which was the basis of the evaluated strength. Thus, the protester's mischaracterization as to the agency's evaluation findings provide no basis on which to sustain the protest.

The protest is denied.

Edda Emmanuelli Perez
General Counsel