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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

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Decision

Matter of: Yang Enterprises, Inc.; Santa Barbara Applied Research, Inc.

File: B-294605.4; B-294605.5; B-294605.6

Date: April 1, 2005

Walter A. I. Wilson, Esq., and Lawrence M. Prosen, Esq., Bell, Boyd & Lloyd PLLC, for Yang Enterprises, Inc.; and Irene M. Guimera, Esq., and Joseph E. Guimera, Esq., Guimera & Guimera, for Santa Barbara Applied Research, Inc., the protesters. Brian Koji, Esq., Allen, Norton & Blue, PA, for Call Henry, Inc., an intervenor. Maj. Rebecca R. Vernon, and Capt. Samuel T. Casazza, Department of the Air Force, for the agency. Jonathan L. Kang, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging evaluation of awardee's technical proposal and past performance is denied where record shows that agency's evaluation was reasonable.
 2. Protest alleging agency failed to engage in meaningful discussions is denied where offerors were given meaningful opportunities to address agency concerns during discussions.
 3. Protest challenging selection of low cost proposal is denied because, even where cost is the least important factor for award, an agency may award to an offeror with a lower-cost, lower-rated proposal if it reasonably determines that the cost premium involved in awarding to an offeror with a higher-rated proposal is too great.
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DECISION

Yang Enterprises, Inc. (YEI) and Santa Barbara Applied Research, Inc. (SBAR) protest the award of a contract to Call Henry, Inc. (CHI) under request for proposals (RFP) No. F04684-02-R-0024, issued by the Department of the Air Force for the launch operations support contract (LOSC) at Vandenberg Air Force Base (AFB), California. The protesters argue that the agency improperly evaluated the awardee's technical proposal and past performance, failed to conduct a reasonable cost realism analysis of the awardee's cost proposal, failed to conduct meaningful discussions

with offerors, and conducted an improper cost/technical trade-off in making the source selection.

We deny the protests.

BACKGROUND

The RFP was issued on August 27, 2003 and anticipated the award of a cost-reimbursement contract (with cost-plus-award-fee line items) for a 1-year base period, with six 1-year option periods. The RFP sought proposals to provide management and support, maintenance and repair, operations support and minor facility alterations for launch and test range systems at Vandenberg AFB. RFP, Statement of Work (SOW), at 1.

The RFP stated that “[t]he Government will select the best overall offer, based upon an integrated assessment of Past Performance, Proposal Risk, Mission Capability, and Price/Cost.” RFP § M.1.1. The mission capability factor had three subfactors: (1) operation & maintenance (O&M), repair & launch/power plant support; (2) contractor computerized management system (CCMS); (3) reliability centered maintenance (RCM); and (4) phase-in plan. RFP § M.2.2. The relative weights of the evaluation factors were as follows:

Factor 1 (Past Performance) and Factor 2 (Proposal Risk) are equal and each is significantly more important than Factor 3 (Mission Capability (Technical & Management)) which is, in turn significantly more important than Factor 4 (Cost/Price). Within the Mission Capability (Technical & Management) factor, the subfactors are of equal importance. All evaluation factors other than cost or price, when combined, are significantly more important than cost or price.

Id.

The agency received 9 proposals in response to the RFP, and established a competitive range of the 7 most highly-rated proposals. After an initial round of discussions, the agency issued a revised RFP that reflected decreased funding for the program and advised offerors of reductions for certain contract requirements. RFP amend. 5. The agency requested that offerors submit final revised proposals detailing any changes resulting from the decreased funding and requirements.

The agency initially selected CHI for award on August 20, 2004. YEI and SBAR each filed protests with our Office. The agency notified our Office on September 29, 2004 that it was taking corrective action in response to the protests, and we accordingly dismissed both protests.

The agency’s corrective action sought additional and updated past performance references for offerors, and reexamined offerors’ evaluation ratings in a revised

proposal analysis report (PAR). Contracting Officer's (CO's) Statement at 4, ¶¶ 8-9. The agency additionally sought past performance references and information for CHI that SBAR alleged in its protest had not been considered. Agency Report (AR), Tab 47, Revised Past Performance Report, at 1. The agency did not receive any new past performance references for offerors other than CHI. *Id.* After reviewing the new CHI past performance information, the agency did not change CHI's past performance evaluation rating. *Id.* Following the corrective action, the agency's evaluations of CHI, SBR and YEI offerors were as follows:¹

	CHI	SBAR	YEI
Past Performance	Significant Confidence	High Confidence	High Confidence
Mission Capability ²			
Subfactor 1 - O&M	Blue / Low Risk	Blue / Low Risk	Blue / Low Risk
Subfactor 2 - CCMS	Blue / Low Risk	Blue / Low Risk	Blue / Low Risk
Subfactor 3 - RCM	Green / Low Risk	Green / Low Risk	Green / Low Risk
Subfactor 4 - Phase-in	Green / Low Risk	Green / Low Risk	Green / Low Risk
Proposed Cost	\$53,840,996	[DELETED]	[DELETED]
Most Probable Cost	\$53,840,996	[DELETED]	[DELETED]

AR, Tab 44, Revised PAR, at 175-76.

The revised PAR was incorporated into a revised briefing to the source selection authority (SSA). AR, Tab 46, Revised SSA Briefing. The SSA considered CHI, SBAR and a fourth offeror, TekStar, to have submitted "the most competitive proposals." AR, Tab 45, Revised Source Selection Decision (SSD), at 1. The final tradeoff decision compared CHI's proposal to these two other offerors' proposals, and did not explicitly compare CHI's and YEI's proposals. *Id.* at 6-7. The agency selected CHI for award on December 9, concluding that although CHI's past performance rating was lower than that of SBAR and the other offeror, CHI's proposal offered many advantages and the other offerors' proposals were not sufficiently superior

¹ Ratings for each evaluation factor were as follows, in decreasing values: past performance--high confidence/exceptional, significant confidence/very good, confidence/satisfactory, unknown confidence/neutral, little confidence/marginal, and no confidence/unsatisfactory; mission capability--blue/excellent, green/acceptable, yellow/marginal, and red/unacceptable; and proposal risk--low, medium and high. AR, Legal Memorandum, at 4-5.

² The proposal risk factor was evaluated based on each of the mission capability subfactors.

technically to warrant paying the additional cost premium. Id. at 7. Following their respective debriefings, YEI and SBAR filed these protests.

DISCUSSION

Evaluation of CHI's Mission Capability, CCMS Subfactor

The protesters argue that the agency improperly evaluated CHI's mission capability score as "blue/excellent, low risk" under the CCMS subfactor. The protesters primarily argue that the agency unreasonably evaluated past performance information regarding CHI's contract for facilities operation and maintenance at the Los Angeles AFB that pertains to CHI's CCMS. In reviewing a procuring agency's evaluation of an offeror's technical proposal, our role is limited to ensuring that the evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. Urban-Meridian Joint Venture, B-287168, B-287168.2, May 7, 2001, 2001 CPD ¶ 91 at 2. Our Office will not question an agency's evaluation judgments absent evidence that those judgments were unreasonable or contrary to the stated evaluation criteria. Kay & Assocs., Inc., B-291269, Dec. 11, 2002, 2003 CPD ¶ 12 at 4.

The CCMS is a computer program that enables the contractor to manage cost accounting and orders for services and equipment. Offerors were required to "[d]emonstrate[] an effective approach for an integrated work and financial management CCMS database system that generates comprehensive . . . reports, correctly captures work data, accurately inputs data . . . and is accessible for Government inquiry to no later than 2 months after basic contract start date." RFP § M, ¶ 3.0(c)(1). The CCMS evaluation subfactor stated that the agency would review each proposal to determine "how the proposal supports the threshold performance requirements of the [SOW]." RFP § M.3.c. Thus, the CCMS evaluation criterion focuses on the offeror's CCMS as proposed, and does not explicitly state that the agency will review past performance in the evaluation. Neither YEI nor SBAR challenges the strengths in CHI's CCMS cited by the agency, and thus the protesters provide no basis to challenge the agency's evaluation of CHI's CCMS as proposed.

To the extent protesters argue that information regarding CHI's past performance information casts doubt on the proposal risk element of the CCMS subfactor evaluation, it is clear that the agency considered CHI's past performance and did not consider it to cast doubt on the quality of CHI's CCMS. The protesters base their argument on information discussed during a June 4, 2004 conversation between an agency contracting representative and the contracting officer for CHI's Los Angeles AFB contract. This conversation addressed several issues regarding CHI's performance of that contract, including one statement regarding CHI's CCMS: "I asked him about CHI's CCMS, which is their own developed product, Capella? He said that there are still some problems with the Comm Group and firewall and what

can and can't be done and developing 'work arounds' in the mean time." AR, Tab 29, Summary of CHI Reference Call (June 4, 2004).

The agency contends that the statements in the June 4 discussion do not clearly indicate problems with CHI's CCMS itself, nor do they indicate problems with CHI's performance that raised concerns about CHI's risk assessment as it relates to CCMS. Rather, the agency argues, the statements relate to difficulties in integrating the CCMS with the existing Los Angeles AFB computer system and firewall, a process which the agency characterizes as a normal effort required in implementing a new system. With regard to CHI's past performance evaluation, the agency acknowledges it received a negative comment regarding CHI's performance regarding its CCMS. AR, Tab 44, Revised PAR, at 60. The agency noted, however, that the Los Angeles AFB assessing official wrote that the issue had been addressed: "Contractor has encountered some problems in keeping database current. They have taken corrective action to resolve and appears to have been effective." Id.

We agree with the agency that the June 4 statement does not identify a problem with the CCMS itself. Furthermore, we conclude that the only past performance comment addressing the CCMS, regarding database currency, appears to have been resolved. We conclude that the agency's determination that CHI's proposal warranted a "blue/excellent, low risk" rating was reasonable.

Evaluation of CHI's Past Performance

The protesters next argue that the agency failed to consider new information it received regarding CHI's past performance or unreasonably concluded that the new information did not warrant adjustment to CHI's past performance rating. The evaluation of past performance, including the agency's determination of the relevance and scope of an offeror's performance history to be considered, is a matter of agency discretion, which we will not find improper unless unreasonable, inconsistent with the solicitation criteria, or undocumented. Family Entm't Servs., Inc., d/b/a/ IMC, B-291997.4, June 10, 2004, 2004 CPD ¶ 128 at 5.

As explained above, as part of its corrective action, the agency sought new past performance references for CHI and received a new contractor performance appraisal report (CPAR) for a CHI contract with NASA at the Glenn Research Center, and a new questionnaire response regarding the CHI contract at the Los Angeles AFB. CO Statement at 13-14, ¶ 6.b. The agency also conducted a teleconference with the Los Angeles AFB contracting officer, as discussed above. Id. at 14. The agency concluded that the new information did not warrant revision of CHI's past performance rating. AR, Tab 44, Revised PAR, at 10.

The protesters argue that the agency unreasonably ignored issues raised in the agency's June 4 conversation with the Los Angeles AFB contracting officer. The June 4 conversation cites certain "growing pains" associated with CHI's shift from a "reactive maintenance program' to a 'preventative/predictive maintenance

program,” and that “[t]he Gov’t is working the ‘kinks’ out as they go along and mak[ing] changes where necessary.” AR, Tab 29, Summary of CHI Reference Call (June 4, 2004). The PAR filed by the Los Angeles AFB for CHI’s contract notes that “[t]he Emergency Services, i.e. Readiness Program has been less than stellar.” AR, Tab 30, CHI CPAR for Los Angeles AFB contract. The agency was also advised that CHI’s performance on the Los Angeles AFB contract resulted in a reduction of its award fee from [DELETED] to [DELETED]. CO Statement at 14-15, ¶ 6.g; AR, Tab 46, Revised SSA Briefing, at 4. The agency further was advised that the cause for the reduction was “[u]nsatisfactory performance in 1) training readiness (for chemical warfare), and 2) keeping of records and programs up to date with respect to Disaster Control Group documentation.” AR, Tab 44, Revised PAR, at 63.

With regard to the issues raised in the June 4 call concerning the Los Angeles AFB contract, the agency responds that it viewed the comments regarding “kinks” and other issues as indicative of issues that are “not uncommon during contract performance,” but in any case were not a sufficient basis for reducing CHI’s past performance rating. CO Statement at 13-15, ¶¶ 6.b, 6.h. The agency further notes that CHI was still rated “Very Good” overall for its performance of the Los Angeles AFB contract. AR, Tab 44, Revised PAR, at 62. With regard to the reduction in the award fee, the agency concluded that the issues cited by the Los Angeles AFB in reducing the fee “are not directly related to LOOSC” contract requirements. AR, Tab 46, Revised SSA Briefing, at 4. Furthermore, the agency noted that a reduction from [DELETED] to [DELETED] of the eligible award fees meant that CHI still received a “Very Good” rating for performance, as this rating covered award fees ranging from 51% to 75%. CO Statement at 14-15, ¶ 6.g; AR, Tab 31, CHI Award Fee Matrix for Los Angeles AFB Contract, at 1. In the end, the agency found no basis to change CHI’s past performance rating. CO Statement at 15, ¶ 6.h. We find that the agency’s determination here was reasonable.

SBAR additionally challenges the agency’s evaluation of CHI’s past performance rating for the NASA Glenn Research Center Institution Facilities Operation, Repair and Maintenance contract. The agency credited CHI with “a phase-in plan that resulted in a seamless transition.” AR, Tab 44, Revised PAR, at 54. SBAR argues that the “seamless transition” comment is inconsistent with a comment by the CPAR assessing official that “Phase-in issues existed but contractor successfully addressed identified problems.” AR, Tab 44, Revised PAR, at 61. The agency responds that the comment, rather than raising a concern, indicated corrective action had been successful. The agency observes that the RFP specifically contemplates consideration of such efforts in the evaluation of offerors’ past performance: “Where relevant performance record indicates performance problems, the Government will consider the number and severity of the problems and the appropriateness and effectiveness of any corrective actions taken (not just planned or promised).” RFP § M.3.a.1. Finally, the agency notes that this was one comment among many, and that, overall, the contract received “excellent” marks for all areas. AR, Tab 44, Revised PAR, at 61.

We do not believe that the two statements regarding CHI's phase-in are necessarily in direct conflict, or at least do not create an inconsistency that challenges the reasonableness of the agency's determination. In this connection, the agency's description of CHI's performance states that the contractor "successfully addressed" the problems and the agency considered this to have mitigated the concern. Accordingly, we find no basis to challenge the reasonableness of the agency's evaluation here.

We conclude that the agency clearly considered the issues discussed above regarding CHI's past performance. The record shows that the agency evaluated all of this information and reasonably concluded that there was no basis to change CHI's past performance evaluation. In particular, the SSA briefing noted the new data for the NASA and Los Angeles AFB contracts, including the performance problems at Los Angeles AFB and reduction in award fees. AR, Tab 46, Revised SSA Briefing, at 4. Furthermore, the fact that the agency gave CHI less than the highest evaluation rating for past performance reflects the agency's judgment that there were in fact qualitative differences between the awardee's and protesters' past performance proposals. To the extent that the protesters argue that the agency should have given CHI a lower past performance score based on the concerns identified in CHI's past performance evaluation, we view this, in light of our discussion above, as no more than disagreement with the agency's reasonable judgment, which does not provide a basis to challenge the reasonableness of the agency's evaluation.

Evaluation of CHI's Cost Realism

SBAR argues that the agency's cost realism analysis was inadequate. SBAR's argument, however, is based solely on the fact that CHI's MPC, as determined by the agency, was approximately \$5 million less than the independent government estimate (IGE). The agency responds that SBAR merely points to an overall magnitude of difference between CHI's MPC and the IGE, rather than argue that specific elements of the cost realism analysis were defective. The mere fact that an offeror's proposed costs are lower than the IGE does not render that offeror's costs unreasonable or unrealistic. SCI Sys., Inc., B-257985, B-257985.2, Dec. 19, 1994, 94-2 CPD ¶ 248 at 4-5. Because SBAR does not identify any element of CHI's cost proposal that was allegedly unrealistic, we find no basis to challenge the reasonableness of the agency's conclusion. See Pueblo Envtl. Solution, LLC, B-291487, B-291487.2, Dec. 16, 2002, 2003 CPD ¶ 14 at 12-13.

Discussions with YEI and SBAR

Amendment no. 5 to the RFP reduced several contract requirements including equipment, labor hours, and reimbursable items, and requested that offerors submit revised proposals addressing these changes. The protesters argue that the agency misled them into either increasing or not reducing their proposed costs, the area

which they argue became the determinative factor in the source selection decision, by stating that the cost reductions would jeopardize their proposal risk ratings.³

SBAR specifically argues that the agency misled it into not making staffing cuts during discussions regarding SBAR's response to RFP amendment no. 5. In particular, SBAR argues that the source selection evaluation team (SSET) chair cautioned SBAR against eliminating [DELETED] full-time equivalent (FTE) positions, which induced SBAR to retain these positions and forego cost savings of up to [DELETED]. The agency contends, however, that SBAR's response to RFP amendment no. 5 proposed staff reductions that were unrelated to the changed requirements in that amendment. SBAR's initial response to RFP amendment no. 5 proposed to eliminate [DELETED] FTE positions. AR, Tab 26-5, SBAR Response to RFP amend. 5 (May 10, 2004). During telephonic discussions with SBAR, the agency expressed its concern that certain of these reductions cast doubt on SBAR's ability to meet the SOW requirements and asked SBAR to address these concerns. AR, Tab 26-6, Agency Memorandum re SBAR Response to amend. 5 (May 21, 2004). For example, SBAR proposed to reduce a number of FTE positions based on reduced pressure vessel requirements for Space Launch Centers 3 & 4. AR, Tab 26-5, SBAR Response to RFP amend. 5 (May 10, 2004). The agency agreed that reduction to [DELETED] specialist FTE position reasonably reflected the reduced pressure vessel requirements, but questioned the reduction of additional FTE positions. AR, Tab 26-6, Agency Memorandum re SBAR Response to amend. 5 (May 21, 2004).⁴ The record shows that SBAR subsequently determined that certain of these reductions were not related to the reductions in scope in RFP amendment no. 5, and omitted the reductions from its final proposal revision. *Id.*; First Declaration of President of SBAR ¶ 2 ("The reductions described in the May 10 letter were in response to Amendment 5, but were also intended to streamline SBAR's staffing overall.")

We believe that the agency reasonably was concerned that SBAR's proposed staffing reductions went beyond those justified by RFP amendment no. 5, and that the questions posed to SBAR during discussions were required to ensure that SBAR's low risk rating was still warranted. The agency reasonably sought assurances that changes in SBAR's proposed staffing costs would still allow SBAR to perform its technical solution as proposed. Although the agency provided SBAR the opportunity to explain how it would be able to meet the SOW requirements with the reduced FTE positions, SBAR did not provide a convincing rationale during the telephonic

³ Prior to RFP amendment no. 5, the agency had initially evaluated SBAR and YEI's proposals as having "Low Risk." AR, Tab 51, Initial SSA Briefing, at 47.

⁴ In addition to these staffing issues, the record shows that the agency reasonably raised similar concerns with regard to other costs that SBAR sought to reduce beyond the scope of the work reductions in RFP amendment no. 5. AR, Tab 26-6, Agency Memorandum re SBAR Response to RFP amend. 5 (May 21, 2004).

discussions, and in its final response, SBAR chose to forego reduction of the [DELETED] FTE positions. AR, Tab 26-5, SBAR Final Response to RFP amend. 5 (May 17, 2004). On this record, we conclude that discussions in this area were meaningful and not misleading.

SBAR additionally argues that the agency failed to provide discussions regarding two cost issues cited in the SSD: “SBAR had a high number of man-years to provide robust [DELETED] approach and no manning reduction for known reduced requirements in the out [option] years.” AR, Tab 45, Revised SSD, at 4. With regard to SBAR’s staffing for [DELETED], the agency determined that SBAR’s technical approach to meeting the SOW requirements necessitated such staffing. The agency advised SBAR in evaluation notices (ENs) that its staffing was “significantly high” in certain areas. AR, Tab 26-3, SBAR Discussions, EN SBAR-T-0003-1. SBAR responded that its staffing appeared high due to the approach it took to [DELETED] requirements. Id. The agency determined that this explanation of SBAR’s technical and staffing approach was sufficient to explain the need for the higher staffing. Id.

The SSD noted that the differences between CHI and SBAR’s final proposed staffing hours stemmed from their different technical approaches: “The man-year delta is attributed to the offeror’s proposed technical approach. Call Henry proposed numerous strengths that provide manning efficiencies. SBAR had manning efficiencies for their strengths and a high number of [DELETED] man-years to support their robust [DELETED] program.” AR, Tab 45, Revised SSD, at 4. Thus, although the agency was no longer concerned that SBAR’s proposed staffing overall was so high as to warrant further discussions, it was in no way precluded from determining that SBAR’s staffing was still high due to the specific technical approach and staffing proposed by SBAR in meeting the [DELETED] requirements.

With regard to staffing in the out/option years, the SSD noted that although CHI had proposed savings by identifying reduced performance requirements and staffing needs in the RFP during those years, neither SBAR nor TekStar had proposed such reductions. AR, Tab 45, Revised SSD, at 4. The agency viewed these reductions proposed by CHI as innovations, rather than requirements under the RFP: “Call Henry’s proposed cost is lower than SBAR and [another offeror] due to Call Henry’s additional strengths identified in [its mission capability proposal] and recognition of reduced work requirements in the option years.” Id. Reducing staffing during the out/option years was not a requirement under the RFP and the agency’s evaluation was not based on a determination that SBAR missed or failed to respond to a cost issue. Instead, the agency noted CHI’s strength in identifying the savings and

proposing lower costs as compared to SBAR and TekStar's proposals which did not offer corresponding savings.⁵

Although agencies are required to advise offerors through discussions of significant weaknesses or deficiencies in their proposals, agencies need not inform an offeror that its costs are not as competitive as those of another offeror. SOS Interpreting, Ltd., B-287477.2, May 16, 2001, 2001 CPD ¶ 84 at 3. Accordingly, if an offeror's costs are not so high as to be unreasonable and unacceptable for contract award, the agency may conduct meaningful discussions without raising the issue of the offeror's costs. Mechanical Equip. Co., Inc.; Highland Eng'g, Inc.; Etnyre Int'l, Ltd.; Kara Aerospace, Inc., B-292789.2 et al., Dec. 15, 2003, 2004 CPD ¶ 192 at 18. Furthermore, SBAR does not provide any support for its assertion that it was misled into not reducing its staffing for the out/option years. Based on the record, we find that the agency conducted meaningful discussions with SBAR with regard to the [DELETED] and reduced requirements in the out years.

YEI argues that the agency failed to engage in meaningful discussions regarding its material and equipment costs.⁶ YEI first contends that the agency refused to allow YEI to reduce its proposed material costs of [DELETED] per FTE position, and that the agency instead pressured YEI into increasing those costs to [DELETED] per FTE position. The agency responds that YEI initially proposed [DELETED] per FTE position in material costs, and that during discussions the agency requested that YEI provide additional detail to support this figure. Second Declaration of Agency SSET Chair ¶ 4. YEI's response to the agency's EN stated that the [DELETED] figure was cited "in error" based on "actual cost experience on similar contracts at both Cape Canaveral Air Force Station and Kennedy Space Station." AR, Tab 22-11, YEI Discussions, EN Yang-C-0004. YEI then proposed a revised cost of [DELETED] per FTE position. Id. In subsequent rounds of discussions, the agency questioned certain elements of YEI's costs as [DELETED]. AR, Tab 22-11, YEI Discussions, EN Yang-C-0004-1. YEI's response to the agency's request to justify its costs affirmed that YEI believed that the [DELETED] per FTE position in material costs was appropriate. Id. In sum, the record does not support YEI's argument that the agency required or compelled YEI to increase its material costs. We conclude that the agency's discussions with regard to these costs were meaningful and not misleading.

⁵ This comparative evaluation of the offerors is also reflected in the PAR, where the agency compares those offerors whose technical approaches allowed for a reduction in staffing. AR, Tab 44, Revised PAR, at 185.

⁶ YEI additionally alleges that the agency discouraged it from reducing [DELETED] FTE positions. Third Affidavit of YEI President ¶ 9. The agency responds, and YEI does not dispute, that YEI in fact made this reduction. Second Declaration of SSET Chair ¶ 3 (citing Yang Final Proposal Revision, AR, Tab 27-5, as showing reduction of hours totaling approximately [DELETED] FTE positions).

YEI next contends that the agency improperly compelled it to propose [DELETED] for equipment rental costs, which was [DELETED] more than what YEI believed was needed for the effort. Third Affidavit of YEI President at ¶ 11. With regard to the equipment rental costs, RFP amendment no. 5 advised offerors that some previously identified government-furnished equipment would no longer be provided because of the reduction in funding for the program. AR, Tab 38, RFP amend. 5. The agency argues that YEI initially failed to propose costs to lease required equipment. First Declaration of SSET Chair ¶ 12. YEI acknowledges that its response to RFP amendment no. 5 “initially proposed a [DELETED] amount for this item,” and that after discussions with the agency, YEI conceded that rental costs for equipment would be required. Third Affidavit of YEI President ¶ 11. Although YEI contends that the agency pressured it into proposing more costs than it believed necessary, the agency disputes YEI’s account: “As documented in the ENs and discussion minutes, I was not repeatedly told that Yang does not need ‘[DELETED]’ worth of equipment for this procurement,’ nor told that [DELETED] was Yang’s proposed equipment cost.” Second Declaration of SSET Chair ¶ 5. The record shows that YEI failed to propose costs for equipment rental and was advised of this fact by the agency, and that YEI ultimately proposed [DELETED] in costs. The record does not support YEI’s account that the agency specified or required a particular equipment cost amount, or that the agency improperly required or compelled YEI to increase its equipment costs. We conclude that the agency’s discussions with regard to these costs were meaningful and not misleading.

Best Value Determination

Finally, YEI and SBAR argue that the RFP award criteria precluded selecting CHI because there was no reasonable way for the SSA to select a lower-cost offeror whose past performance score was lower than other offerors. For example, YEI argues: “Past performance was most important. Cost/price was least important. At the end of the day, if a contractor had a better overall scoring (excluding cost/price), the stated evaluation criteria rating mechanism required the contractor be awarded the contract.” Comments of YEI at 7. See also Supplemental Comments of YEI at 4 (“[T]he stated evaluation criteria . . . precluded the SSA from making the award decision that he did.”)

The protesters’ arguments are fundamentally incorrect regarding the discretion afforded to source selection officials in making cost/technical tradeoffs. Although the difference between the CHI and the protesters’ adjectival scores occurs in past performance, one of the two the most heavily-weighted evaluation factors, this does not preclude award to the lower technically-rated offeror. Even where cost is the least important evaluation factor, an agency may properly select a lower-cost, lower-rated proposal if it reasonably decides that the cost premium involved in selecting a higher-rated, higher-cost proposal is not justified. Specific Sys., Ltd., B-292087.3, Feb. 20, 2004, 2004 CPD ¶ 119 at 5; SelRico Servs., Inc., B-286664.4, et al., June 22, 2001, 2002 CPD ¶ 6 at 3. Source selection officials in negotiated procurements have broad discretion in determining the manner and extent to which they will make use

of the technical and cost evaluation results; cost/technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the test of rationality and consistency with the solicitation's evaluation criteria. Atteloir, Inc., B-290601, B-290602, Aug. 12, 2002, 2002 CPD ¶ 160 at 5.

Here, the SSA identified specific strengths and advantages of CHI's proposal, such as: "exceeding the minimum requirements by offering stocked mobile service units, NACE III certified corrosion engineer, wireless PDAs with bar code scanners, and a CCMS system with illustrated parts breakdown drop down menu; automatic warranty pop-up information and automatic work status email to customers." AR, Tab 45, Revised SSD, at 6-7. The SSA further found that the adjectival scores overstated somewhat the differences between the offerors' past performance ratings, and that he considered CHI's past performance proposal to demonstrate "robust significant confidence." Id. at 2. The SSA additionally noted that CHI's "recent [CPAR] showed an improvement to excellent in the quality of their performance at Glenn Research Center, which is a similar and complex contract that exhibited a vast majority of Launch Operation Support Contract (LOSC) statement of work magnitude," and that CHI's "past performance was consistently relevant in all four [mission capability] subfactors with proven and demonstrated [CCMS] and [RCM] at other locations showing an upward quality of performance trend based on their latest . . . (CPAR) rating." Id. at 1, 6. The SSA concluded that award to CHI was warranted because "[t]he combination of Call Henry's lower price (\$5.2m less) and additional further enhancements, substantial innovations, or efficiencies outweighs SBAR's higher past performance rating." AR, Tab 45, Revised SSD, at 7.

Although the protesters argue that the agency placed too much weight on CHI's lower cost, we find that the SSA reasonably concluded that the higher costs of the protesters' proposals were not offset by their higher technical ratings under the past performance evaluation factor. In sum, we find no basis to challenge the source selection decision.⁷

The protests are denied.

Anthony H. Gamboa
General Counsel

⁷ The protesters make several additional allegations that we do not address here, such as challenges to the sufficiency of the agency's corrective action. We have reviewed all of the protesters' additional grounds and do not find any merit to them.