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United States General Accounting Office
Washington, DC 20548

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Decision

Matter of: EER Systems, Inc.

File: B-290971.3, B-290971.6

Date: October 23, 2002

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Joseph Boggs, Esq., Naval Air Warfare Center, for the agency.
Tania Calhoun, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protests that contracting agency's evaluation of management and technical proposals was unreasonable are denied where the record shows that the evaluation was reasonable and consistent with the stated evaluation criteria; protest that contracting agency's cost realism analysis of offerors' cost proposals was unreasonable is denied where the record shows that the agency's methodology and rationale for its analysis were reasonable.

DECISION

EER Systems, Inc. protests the award of a contract to Veridian Engineering, Inc., under request for proposals (RFP) No. N68936-01-R-0079, issued by the Department of the Navy, Naval Air Warfare Center Weapons Division (NAWCWD), to obtain scientific, technical, administrative, and research, development, test, and evaluation services. EER argues that the Navy improperly evaluated technical and cost proposals and conducted an improper cost/technical tradeoff analysis and source selection decision.

We deny the protests.

The solicitation was issued on January 10, 2002, to acquire the services and materials necessary to support the analysis, design, development, test, integration, deployment and operations of information technology systems and services that sustain the research, development, test and evaluation, and business/administrative functions in support of the Naval Air Warfare Center Weapons Division. RFP § C.1.0.1. The effort, known as the STARS contract, combines work remaining under several existing contracts.

The RFP contemplated the award of a cost-plus-award-fee, indefinite-delivery/indefinite-quantity (ID/IQ) contract over a 5-year period to be performed principally at sites located in China Lake and Point Mugu, California. RFP Statement of Work (SOW) ¶ 1.1.1. The level of effort to perform the contract was estimated at 2,740,080 hours of direct labor, including authorized subcontract labor, with an option for as many as 155,100 additional labor hours. RFP § B, at 4-5. A chart in section B of the RFP estimated the composition of the total hours by labor category and classification; for proposal and evaluation purposes, offerors were required to use the number of hours per labor category, per year, set forth in this chart. RFP §§ B, at 5; L, at 74. The agency reserved the right to award the contract on the basis of initial offers, without conducting discussions, and cautioned offerors that their initial offers should contain their best terms. RFP § M, at 83.

Award was to be made to the offeror whose proposal offered the greatest value to the government considering the following evaluation factors: management and technical, past performance, and cost/price. Id. Of the three basic evaluation areas, the management factor, technical factor, and past performance factor were of equal importance and, when combined, were significantly more important than cost/price. A summary rating was to be determined; that is, both the management and technical approach and processes (oral presentation) factors and their subfactors were to be evaluated based on the synergism of the data presented and given one qualitative rating and one proposal risk rating for the combined factors. Id. at 84.

A cost/price analysis was to be conducted on cost proposals to ensure the proposed pricing was realistic, fair, and reasonable. Proposed costs were also to be evaluated for realism to determine if the costs proposed were realistic for the work to be performed; reflected a clear understanding of the solicitation requirements; and were consistent with approaches in the offeror's management/technical proposal. Id. at 86. Pertinent cost information was to be used to arrive at the government determination of realistic costs; if proposed costs were considered to be unrealistic, they might be adjusted upward or downward to reflect more realistic costs. Id.

The Navy received proposals from four offerors by the February 12, 2002 closing date, including those from Veridian and EER.[1] Each offeror made its oral presentation, and management and technical proposals were evaluated by the management/technical evaluation team (M/TET); past performance proposals were evaluated by the past performance evaluation team (PPET); and cost proposals were evaluated by the cost evaluation team (CET). Each team provided final summary

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[1] We recently issued a decision denying the protests of another unsuccessful offeror. Science Applications Int'l Corp., B-290971 et al., Oct. 16, 2002, 2002 CPD ¶ __.

reports to the contracting officer and briefed the competitive award panel (CAP). After this meeting, the M/TET drafted a tradeoff analysis report for the CAP, and the CAP drafted its report showing the following final evaluation results:

	Veridian	EER
Management/Technical	Highly Satisfactory Low Risk	Satisfactory Moderate Risk
Past Performance Risk	Very Low	Very Low
Proposed Cost **Evaluated Cost**	$163,429,753 $[DELETED]	$[DELETED] $[DELETED]

The CAP report included a detailed "best value" analysis of each proposal and recommended award, without conducting discussions, to Veridian. After reviewing the reports of each team and the CAP, as well as the business clearance memorandum, the source selection authority (SSA) concurred with the CAP's conclusion that Veridian's proposal exceeded the minimum requirements and contained enhancing features in a manner that would "most" benefit the government. Source Selection Decision Document (SSDD) at 2. She found that Veridian's management proposal contained numerous strengths in all areas evaluated, and its technical presentation provided a straightforward coherent process in which all of the pieces were organized and integrated ensuring successful execution of the program through well-defined life cycle "tailoring." Veridian was the only offeror receiving a management/technical rating of highly satisfactory and, based on its past experience, there was essentially no doubt that Veridian would successfully perform the required efforts in an exemplary manner.

The SSA also stated that she had considered the cost differences between Veridian and the other offerors, and went on to address their relative merits. The SSA stated that EER's management/technical rating was satisfactory with a moderate risk rating. In both the management and technical areas, EER provided an adequate proposal, which demonstrated some strengths, but also had some significant weaknesses. The fragmented approach presented for the sample task would require special contractor emphasis to ensure that schedule, cost and performance were achieved. While the proposal was satisfactory, there were no enhancing features proposed that would benefit the government. In addition, the cost realism evaluation revealed that the cost proposal [DELETED]. Award without discussions would not be possible for this contractor without significant performance risk. SSDD at 2.

EER argues that the Navy improperly evaluated technical and cost proposals and conducted an improper cost/technical tradeoff analysis and source selection decision. For the reasons below, we deny the protests.

EVALUATION OF MANAGEMENT/TECHNICAL PROPOSALS

EER argues that the Navy performed a flawed evaluation of management/technical proposals by assigning it a significant weakness for failing to provide written agreements of commitment for its proposed key personnel; by improperly downgrading EER for weaknesses in its proposal without making similar reductions in Veridian's ratings; and by improperly failing to give EER credit for enhancing features offered in its proposal while overstating the benefit of Veridian's strengths.

An agency's method for evaluating the relative merits of competing proposals is a matter within the agency's discretion, since the agency is responsible for defining its needs and the best method or accommodating them. NLX Corp., B-288785, B-288785.2, Dec. 7, 2001, 2001 CPD ¶ 198 at 4. Where an evaluation is challenged, our Office will not reevaluate proposals but instead will examine the record to determine whether the agency's judgment was reasonable and consistent with stated evaluation criteria and applicable statutes and regulations. Lear Siegler Servs., Inc., B-280834, B-280834.2, Nov. 25, 1998, 98-2 CPD ¶ 136 at 7. The fact that the protester disagrees with the agency does not render the evaluation unreasonable.[2] ESCO, Inc., B-225565, Apr. 29, 1987, 87-1 CPD ¶ 450 at 7.

EER's Management Proposal

The management factor was comprised of seven subfactors. The M/TET concluded that, in some areas, EER's proposal was more than sufficient, while in other areas it provided only what was satisfactory or expected or had weaknesses. M/TET Report at 20. The only identified weakness in EER's management proposal was a significant weakness under the key personnel plan subfactor.

The evaluation of offerors' proposed key personnel plans was to consider, among other things, "the probability of a long-term commitment of the [proposed] Key Personnel performing the functional descriptions . . . ." RFP § L, at 68. For each of the key personnel proposed, the offeror was required to provide signed resumes; "[i]ncluded with the resume, will be a written agreement from the potential employee to work for the offeror effective at contract award." Id.

EER's proposal stated that each of its proposed key personnel was "personally committed to the success of NAWCWD." EER Management Proposal at 30. EER also provided signed resumes from each of its proposed key personnel, all of whom are current EER employees. Id. at R-1 to R-8. None of the resumes were accompanied by or incorporated any "written agreement from the potential

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[2] Although we do not here specifically address all of EER's complaints about the evaluation of its management and technical proposals, we have considered all of them and find that they afford no basis to find the Navy's evaluation unreasonable.

employee to work for the offeror effective at contract award" as required by the RFP. The M/TET found that EER's failure to include such written agreements was a significant weakness. M/TET Report at 22.

EER argues that the solicitation did not require written commitments from current employees, but only required a written agreement from "the potential employee" to work for the offeror effective at contract award. EER argues that it interpreted the word "potential" as a reference to "new" employees, i.e., those proposed key personnel not already employed by EER. We do not agree.

To be reasonable, an interpretation of a solicitation provision must be consistent with the solicitation when read as a whole and in a reasonable manner. Fox Dev. Corp., B-287118.2, 2001 CPD ¶ 140 at 2. Where a dispute exists as to the actual meaning of a solicitation requirement, we will resolve the dispute by reading the solicitation as a whole and in a manner that gives effect to all provisions of the solicitation. Novavax, Inc., B-286167, B-286167.2, Dec. 4, 2000, 2000 CPD ¶ 202 at 7.

The RFP's reference to "potential" employee must be read in the context of the paragraph in which it appears:

> For each of the Key Personnel proposed, the offeror must provide signed resumes (one page each) showing relevant experience, the current hourly and annual salary and the number of hours (direct and indirect) to be provided. The work history of each offeror's key personnel shall contain experience directly related to the functions to be assigned. Included with the resume, will be a written agreement from the potential employee to work for the offeror effective at contract award.

RFP § L, at 68.

When this paragraph is read in its entirety, it is clear that, for each key personnel proposed, the offeror must provide a signed resume and that, for each resume, the offeror must include the requisite written agreement from the potential employee. In the context of this paragraph, "potential employee" is synonymous with "key personnel." All proposed key personnel identified in all offerors' proposals are merely potential employees under the STARS contract,[3] and the requirement, as written, cannot be reasonably read to exempt current employees from the

[3] The RFP included the clause at Federal Acquisition Regulation (FAR) § 5252.237-9501, "Addition or Substitution of Key Personnel (Services)," which requires the contractor to agree to assign only those key personnel whose resumes are submitted and approved.

requirement to submit this written agreement.[4] See Delta Food Serv., B-245804.2, Feb. 11, 1992, 92-1 CPD ¶ 172 at 3.

Citing the RFP's statement that the agency was to evaluate this information to ascertain the probability of a long-term commitment of the key personnel proposed, EER asserts that the fact the evaluators found several of its proposed key personnel had long records of employment with EER and/or longstanding ties to the China Lake area was sufficient to constitute that commitment. In this case, however, the solicitation contained a requirement to demonstrate that the proposed key personnel expressed a commitment to the offeror's performance of the STARS contract. Although EER's proposal may indicate that its key personnel have long-term commitments to EER, to the support of other NAWCWD contracts, and/or to the China Lake area, the RFP required an expression of commitment to EER's potential performance of the STARS contract, which is not present in EER's proposal. As a result, we cannot find the agency's evaluation unreasonable.

Evaluation of Technical Proposals

EER argues that the Navy improperly downgraded EER's proposal in certain areas and that, in several of these areas, the Navy did not similarly downgrade Veridian's proposal even though the offerors had similar responses.

The "technical approach and processes (oral presentation)" factor was comprised of eight subfactors. The agency planned to evaluate offerors' responses to a sample task scenario with a combination of slides and an oral presentation. Each offeror's oral presentation was to include a response to the sample task and address the offeror's knowledge, understanding and capability to perform the scope of the requirements in section 3 of the SOW, as well as explain the processes and resources they would use to meet the requirements. RFP § L, at 71.

The M/TET report states that EER provided an adequate presentation of the sample task and demonstrated the technical knowledge and expertise to do the work. EER demonstrated strengths in its operational concept and scheduling process and showed some weaknesses and/or risk in its program management plan life cycle, life cycle tailoring, budget process, organizational structure and product integrity. The M/TET found that EER's approach to the sample task was fragmented in that there was no linkage between requirements, work breakdown structure, organization, schedule, and budget, and that the firm's fragmented approach would require special contractor emphasis to overcome potential disruption of schedule, increase in cost

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[4] We are not persuaded by EER's argument that its interpretation was reasonable because it was shared by other offerors. Veridian's proposal provided the required written agreements for its current employees, and another offeror provided language sufficient to constitute the requisite agreement for its current employees.

and degradation of performance. M/TET Report at 20. EER challenges various aspects of the M/TET's findings.

First, the M/TET found that EER's proposed operational concept was appropriate and well-presented for the task; its software approach was well-developed; and it demonstrated an understanding of the technical issues and requirements and the complexity of the problem and associated risks. The M/TET considered these to be strengths, but found that EER failed to address maintainability in the design, which was seen as a weakness.[5] M/TET Report at 25.

EER argues that the Navy treated offerors disparately because it did not downgrade Veridian's proposal for failing to address maintainability. In support of its argument, EER cites the worksheets of two evaluators who quote Veridian as stating that "O&M" is not included in its approach to the sample task. However, Veridian's proposal indicates that the "O&M" referred to is "operations and maintenance," not "operability and maintainability." Veridian Technical Proposal at II-2, II-3. During its oral presentation, Veridian discussed the fact that [DELETED] the sample task is a development task. As the Navy explains, operations and maintenance occurs after deployment of a system, while operability and maintainability are required during development of a system. These distinctions were clarified during the consensus evaluation process to the satisfaction of the individual evaluators cited by EER. Where, as here, an agency uses a consensus evaluation approach, the consensus evaluation is controlling, and the fact that there may be inconsistencies among the individual evaluators' initial findings is irrelevant in assessing the reasonableness of the overall evaluation. SWR, Inc., B-286229, B-286229.2, Dec. 5, 2000, 2000 CPD ¶ 196 at 6 n.5. Discussions among evaluators leading up to consensus ratings generally operate to correct mistakes or misperceptions that may have occurred in the individual evaluations. Brisk Waterproofing Co., Inc., B-276247, May 27, 1997, 97-1 CPD ¶ 195 at 2 n.1. Our review of the record affords us no basis to find that the offerors were treated disparately here.

Second, under the program management subfactor, the MTET found that EER used an appropriate life cycle in which it included appropriate reviews, but stated that the products were not identified for the reviews. The M/TET also found that EER did not address configuration management, a basic requirement on any complex task such as this, and that this introduced an element of risk. M/TET Report at 25.

EER argues that it repeatedly addressed configuration management in its written proposal and oral presentation, citing various slides and accompanying narrative remarks. While this information contains numerous references to configuration

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[5] The Navy states that the lack of significance attributable to this weakness is reflected by the fact that it is not mentioned in the CAP report or the SSD; beyond the M/TET report, only the strength in EER's operational concept is noted.

management, it does not show that the firm “addressed” configuration management as required by the RFP. In this regard, the oral presentation was required to “address” the offeror’s knowledge, understanding and capability to perform the scope of the requirements in section 3 of the SOW, and to explain the processes and resources they will use to meet the requirements. RFP § L, at 71. The Navy argues that EER did not explain the processes and resources it would use to meet the Navy’s configuration management requirements, and EER has given us no reason to find this conclusion unreasonable.

Third, the M/TET found that EER’s proposed life cycle tailoring was appropriate, but the firm failed to provide justification or rationale for its schedule and documentation compression, which was a weakness. M/TET Report at 25.

EER argues that the Navy treated proposals disparately, citing the M/TET’s finding, under the schedule subfactor, that Veridian’s schedule was aggressive and appeared unrealistic but attributing that to the lack of detail provided in the sample task and not to Veridian’s ability to use adequate tools to provide an accurate schedule. M/TET Report at 18. EER argues that it was irrational to downgrade EER for failing to provide justification for its schedule when the agency did not downgrade Veridian’s proposal for similar problems but, instead, found that Veridian’s proposed schedule had a strength overall. EER overlooks the remainder of the M/TET’s evaluation, where it concluded that “Veridian used the right processes, followed them and demonstrated a good overall understanding that would allow them to properly schedule complex problems.” Id. The focus of the evaluation under the schedule subfactor was not on the schedule provided but on whether the offeror used the right scheduling process, see RFP § M, at 85, and there is no basis to conclude that the Navy should have downgraded Veridian’s proposal here.

Finally, under the budget subfactor, the M/TET found that EER’s plan budget was consistent with and appropriate for the schedule. EER’s proposal had certain identified strengths, but the M/TET found that the firm did a product work breakdown structure but did not carry the sample through the entire work breakdown structure, raising concerns about whether there would be clear manager accountability regarding the various products. The M/TET concluded that this posed some risk. M/TET Report at 25.

EER argues that it stated in its oral presentation that it would only address a snapshot of its work breakdown structure to illustrate how it would apply the sample task, but that this snapshot provided a very detailed explanation of its work breakdown structure which the Navy failed to consider. In support of its position, EER cites various slides and accompanying narrative in its oral presentation. Our review of this information shows that it does discuss EER’s work breakdown structure, but EER has not demonstrated that it addresses the Navy’s concern that EER’s proposal made it difficult to track products to manager accountability. As a result, we cannot find the Navy’s evaluation unreasonable.

Enhancing Features

EER argues that the Navy improperly failed to consider its proposal of various features as "enhancing features" but gave Veridian's proposal credit for comparable "enhancing features."[6]

In considering proposals on a subfactor-by-subfactor basis, the Navy found proposals contained strengths or weaknesses that were viewed as simple "pluses" or "minuses" to the requirement. In considering both the management and technical factors together with their subfactors "based on the synergism of the data presented" to assign one qualitative rating, RFP § M, at 84, the Navy considered whether a certain set of individual strengths might be recognized as something more than the sum of those individual strengths, "if those strengths complement one another in such a way as to create a different or 'whole' benefit to the government." Agency Report at 20. Conversely, the Navy also considered that, whereas a particular isolated weakness or risk might not have a particular effect with relation to an overall rating or risk assessment, a number of weaknesses might combine in such a way as to diminish the merit of an approach or of a proposal, or a disorganized or fragmented approach might result in an overall increase in performance risk.

The Navy states that, although EER's proposal contained strengths in some areas, they were viewed by the evaluators as a simple "plus" to the requirement that, when examined on a synergistic level, did not combine in such a way as to produce something that the individual strengths were incapable of producing.[7]

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[6] The highly satisfactory rating was to be given to proposals that exceeded requirements in a way that benefited the government or met requirements and contained enhancing features that benefited the government; any weakness was minor. RFP § M, at 84. Veridian's proposal is referred to as having "enhancing features" in reference to the sample task; the M/TET found that EER's proposal did not offer any "enhancing features."

[7] EER argues that the Navy's method of evaluating proposals first at the subfactor level and then at the "synergistic" level was an unauthorized two-tiered evaluation system, and the Navy's application of synergism here constituted an undisclosed evaluation factor. We do not agree. The RFP clearly contemplated the consideration of individual subfactors followed by an evaluation of all factors and subfactors based on the synergism of the data presented. RFP § M at 84. This "synergism of the data presented" is not limited to a consideration of substantive data presented, as advocated by EER, but is sufficiently broad to encompass the agency's consideration of whether a proposal's features, when combined, provided a greater benefit or risk than the sum of the individual features.

Given their inherently subjective nature, agency evaluators' judgments about the qualitative differences which result in finding a certain feature a "strength" versus an "enhancing feature" are not subject to rational legal objection unless a clear showing of unreasonableness is made. See CAS, Inc., B-260934.2, B-260934.3, Sept. 12, 1995, 95-2 CPD ¶ 239 at 6. As demonstrated by the following examples, EER has not made that showing.

EER's management proposal stated that it would [DELETED]. EER Management Proposal at 3. EER argues that the Navy should have considered this [DELETED] to be an enhancing feature. The Navy argues that, given the expectation that the quality of the products and services delivered under the STARS contract should be high, the value of such a [DELETED] is limited. EER's arguments to the contrary are not a clear showing that the Navy's view is unreasonable but, rather, a disagreement over the value of this feature.

EER next argues that it proposed a [DELETED]. EER argues that this [DELETED] should have been considered an enhancing feature. The Navy argues that the value of this promise is limited. The Navy states that the [DELETED] is qualified by the proviso that requirements remain stable, which may be a subjective determination subject to disagreement. In addition, the Navy expects that most of the work will be ordered and delivered under level-of-effort task orders that require the contractor to provide a specified level of support, and states that an offeror's promise [DELETED] is of limited value. Notwithstanding the Navy's view that this feature was not an enhancing feature of EER's proposal, the Navy credited this and another feature as a strength under the cost and quality control plan subfactor. EER has not demonstrated that the agency's evaluation was unreasonable.

Finally, EER argues that its extensive [DELETED] for its SB/SDB teammates should have been viewed as an enhancing feature. The Navy points out that the plan was recognized as a component of processes that "would reasonably result in cost reductions, cost avoidance, or qualitative improvements, resulting in benefit to the Government as it pertains to [SB/SDB] participation." M/TET Report at 23. EER's disagreement that the plan should have been given more favorable recognition does not cast doubt on the reasonableness of the agency's evaluation.

EVALUATION OF COST PROPOSALS

EER argues that the Navy's evaluation of cost proposals was flawed. EER contends that the Navy unreasonably relied on a Defense Contract Audit Agency (DCAA) report provided in connection with its cost proposal; unreasonably concluded that its proposed indirect rate ceiling constituted a risk; improperly failed to adjust Veridian's labor rates or assign them a cost risk; and improperly failed to correct an error in EER's cost proposal.

Where an agency evaluates proposals for the award of a cost-reimbursement contract, an offeror's proposed estimated cost of contract performance should not be considered controlling, since the offeror's estimated costs may not provide valid indications of the final actual costs that the government is required, within certain limits, to pay. Advanced Communication Sys., Inc., B-283650 et al., Dec. 16, 1999, 99-2 CPD ¶ 3 at 5. Accordingly, a cost realism analysis must be performed when a cost-reimbursement contract is contemplated in order to determine the probable cost of performance for each offeror. FAR § 15.404-1(d)(2). A cost realism analysis is the process of independently reviewing and evaluating elements of each offeror's proposed cost estimate to determine whether the proposed cost elements are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the methods of performance and materials described in the offeror's technical proposal. FAR § 15.404-1(d)(1). Because the agency is in the best position to make this cost realism determination, our review is limited to determining whether its cost evaluation was reasonably based and not arbitrary. NV Servs., B-284119.2, Feb. 25, 2000, 2000 CPD ¶ 64 at 7.

DCAA Audit Report

In conducting the cost realism evaluation of EER's proposal, the cost analyst obtained an April 5, 2002 memorandum from the DCAA concerning EER's proposed labor rates. The memorandum cited concerns with various aspects of EER's proposed costs and stated that the DCAA did not believe EER's proposed direct labor rates would be an acceptable basis for negotiation of a fair and reasonable price. The memorandum concluded with a section entitled "Other Matters" which, citing a 1997 DCAA audit report, stated that EER's [DELETED] for various reasons.

The cost realism analysis report shows that the Navy's cost analyst did not heed the DCAA's advice with respect to EER's proposed rates, finding that the DCAA did not consider the solicitation's terms and did not express an opinion on many matters. The Navy's cost analyst therefore accepted the rates proposed by EER with one exception not related to the DCAA memorandum; that is, EER's proposed costs were not adjusted in response to the DCAA's concerns. At the conclusion of the report, the cost analyst included a section entitled "Additional Proposal Concerns" in which he stated that the DCAA had advised that it would be submitting a negative final report based on its belief that EER's proposal would not provide an acceptable basis for negotiation of a fair and reasonable price. EER Cost Realism Analysis Report at 12. The report went on to restate the DCAA's findings, based on the 1997 audit report, that EER's [DELETED], and concluded by stating that the Navy had received the DCAA's updated audit report dated May 6 stating that the concerns noted above remained valid.[8] Id. at 13. As a result, the analyst questioned the [DELETED] and

[8] While not remarked upon by the cost analyst, the DCAA's May 6 report also contained references to [DELETED].

recommended that the DCAA be asked to perform an immediate [DELETED] if EER should receive the award. Id.

EER argues that the DCAA report is erroneous, and that the Navy's reliance on the report was improper. EER primarily asserts that the issues raised concerning its [DELETED] were addressed and resolved, and that it has repeatedly asked the DCAA for a new review, which has not occurred. EER also alleges that the information from the DCAA report formed the basis of EER's moderate performance risk rating.

We have no basis to fault the cost analyst's treatment of this matter. As noted above, no adjustments were made to EER's proposed costs as a result of the DCAA memorandum or its final report. The analyst did not find that EER's [DELETED] was a risk but simply remarked upon the DCAA's comments and noted that this topic should be a matter for discussion if EER were selected as the awardee. While EER asserts that the DCAA report is clearly erroneous, the record before our Office does not show that all of the issues concerning EER's [DELETED] have been resolved. The evidence provided by EER does show that, in 1997, EER advised the DCAA that it would develop and implement the necessary policies and procedures in response to some of the DCAA's concerns but, as to one concern, EER stated that it would continue to use its then-existing practice. The record also shows that EER provided the DCAA with copies of its revised policies and procedures for [DELETED] several times between 1997 and 2000, stating that it had taken action to correct the deficiencies, but the record before us does not indicate that a review by the DCAA has taken place. Given the uncertainty surrounding this issue, it was reasonable for the cost analyst to flag it as an area for discussion if EER were selected for award.[9] As discussed below, the record shows that the source selection decision did not turn on the DCAA report and that EER was not prejudiced even if the agency improperly considered that report.

Indirect Rate Ceiling

Offeors were required to base their cost proposals on a specified number of labor hours. RFP § L at 74. The RFP explained that this number of hours represented the government's current, best estimate of requirements, but that the government could not guarantee them. Id.

EER proposed a ceiling on the [DELETED]. EER Cost Proposal at 12. The Navy's cost analyst found that it was "unlikely" that the required number of hours would be ordered and that the advantage of the capped rate would therefore not be obtained.

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[9] As for EER's argument that the DCAA report was the basis for its moderate risk rating, the record shows that the M/TET, as part of the consensus process, independently assigned the moderate risk rating based upon the results of its evaluation of EER's management/technical proposals, unrelated to the DCAA report.

The cost analyst noted EER's offer to negotiate an indirect [DELETED], and stated that this issue should be revisited if award was to be made to EER. EER Cost Realism Report at 12.

Citing a comment made during the debriefing and a notation on a briefing slide, EER argues that the agency improperly determined that its [DELETED] was a performance risk. However, a review of the record shows that it was not considered a risk; the debriefing slide alone noted it as a "risk," or an item for discussion, only if the agency had determined to conduct discussions. Because a debriefing is only an explanation of the selection decision, not the selection decision itself, our Office is primarily concerned with whether the selection decision itself was proper and supported by the record. Tulane Univ., B-259912, Apr. 21, 1995, 95-1 CPD ¶ 210 at 5-6. There is no evidence in the record that the agency considered EER's [DELETED] to be a performance risk.

EER argues that the RFP should have been amended if the Navy's estimate of hours was so wrong that it was unlikely to be met. As the Navy explains, its estimates, based upon the predecessor contracts, are the best available estimates, but the Navy recognizes that this RFP contemplated the award of an ID/IQ contract, which is used when the government cannot determine or predict the precise quantities of services it will require during the contract period. FAR § 16.504(b). We view the analyst's concern as reflecting the uncertainty associated with the estimate, and the possibility that the Navy might not order the amounts necessary on an annual basis to trigger EER's proposed ceiling does not undermine the validity of the estimate. Howard Johnson, B-260080, May 24, 1995, 95-1 CPD ¶ 259 at 3.

Veridian's Labor Rates

Veridian based its labor rates on [DELETED]. In the cost realism report, the cost analyst stated that the rates derived from [DELETED] would be used as the basis for determining cost realism on the STARS contract since they represented the best estimate of the most probable cost for direct labor in the absence of any information to prove otherwise. Cost Realism Report for Veridian at 5.

EER argues that the cost analyst had information showing that the rates derived from [DELETED] were not the best estimate of Veridian's labor costs because the DCAA determined that Veridian's actual current rates were higher than those in [DELETED]. EER argues that the Navy analyst declined to make an adjustment accounting for these differences because he did not know the impact on Veridian's current category average labor rates if the firm had to hire new employees to perform this contract. EER argues that the Navy should have adjusted Veridian's labor costs upward or recognized an affirmative risk in those costs.

It was not the Navy analyst who declined to make the adjustment to Veridian's proposed labor rates, but the DCAA auditor. After explaining that the DCAA auditor took no exception to Veridian's proposed labor rates, the Navy's cost analyst stated that the auditor compared the proposed labor rates to Veridian's equivalent labor rates using a matrix provided in Veridian's proposal. The Navy's cost analyst explains that this comparison showed that the total proposed cost would have been somewhat higher using Veridian's equivalent labor rates, but that the auditor stated that he did not use this comparison because he did not know how Veridian's current average labor rates would be affected by the hiring of new employees to perform the contract. The auditor also stated that Veridian had not underestimated the costs of performing this contract. Veridian's Cost Realism Analysis Report at 5. Considering the DCAA auditor's view that Veridian had not underestimated the costs of performance, we have no basis to find the agency's decision not to adjust Veridian's rates from those it proposed unreasonable.

Failure to Correct an Error in EER's Proposal

EER argues that the Navy unreasonably failed to adjust its cost downward to correct an error in its proposal. EER states that its proposal erroneously applied the G&A rate to [DELETED], but the narrative portion of its proposal explained that G&A is not applied to [DELETED]. EER asserts that any reasonable evaluation of its cost proposal should have disclosed the error, and the Navy should have corrected it as it did with errors in other cost proposals.

It is the offeror's burden to submit an adequately written cost proposal for the agency to evaluate, especially where, as here, the offeror is specifically on notice that the agency intends to make award based on initial proposals without discussions. <u>Infotec Dev., Inc.</u>, B-258198 <u>et al.</u>, Dec. 27, 1994, 95-1 CPD ¶ 52 at 6. In this case, the RFP advised offerors that proposal volumes must be internally consistent or they would be considered unrealistic and might be considered unacceptable. RFP § L, at 66.

EER's numerous spreadsheets of its proposed costs consistently applied G&A to its [DELETED]. EER now argues that a sentence in the narrative portion of its proposal should override the methodology shown in its spreadsheets. That sentence does not state, as EER asserts, that G&A is not applied to [DELETED]. Instead, the sentence states that "G&A is applied to [DELETED]," EER Cost Proposal at 11; a sentence on the prior page of the proposal states that EER "applies its [DELETED]." <u>Id.</u> at 10. EER has not persuaded us that the narrative portion of its proposal expressed its intent so clearly as to require the Navy to override the methodology it actually applied to resolve what EER concedes is an internal inconsistency. In any event, the RFP provided that, for evaluation purposes, the evaluated cost of a proposal would be the higher of either the offeror's proposed cost or the government's determination of the most probable cost. RFP § M, at 86. As a result, a downward adjustment to EER's proposed costs would not have affected the source selection decision.[10]

SOURCE SELECTION DECISION

Citing one sentence in the SSDD, EER argues that the DCAA report, discussed above, reinforced its moderate risk rating and was foremost in the SSA's mind when she made her source selection decision. The full paragraph in the SSDD belies this allegation:

> [EER's] Management/Technical rating was Satisfactory with a Moderate risk rating. In both the Management and the Technical areas, EER provided an adequate proposal, which demonstrated some strengths, but also had some significant weaknesses. The fragmented approach presented for the sample task would result in special contractor emphasis to ensure that schedule, cost and performance was achieved. While the proposal was satisfactory, there were no enhancing features proposed that would benefit the government. In addition, the cost realism evaluation revealed that the cost proposal contained [DELETED]. Award without discussions would not be possible for this contractor without significant performance risk.

SSDD at 2.

Although the business clearance memorandum, CAP report, and SSDD all made reference to the findings of the DCAA report noted above, the majority of their remarks focused on the results of the management/technical evaluation, demonstrating that the source selection decision did not turn on this issue. As the SSA explains, when she documented her award decision and compared Veridian's offer to those of the other offerors, "foremost in [her] mind was the technical superiority and low risk associated with Veridian's approach and the fact that the non-cost factors were significantly more important than cost." SSA's Declaration ¶ 6. The SSA states that, to her mind, the discrepancies referenced by the DCAA report would only become an issue if the government decided to conduct discussions and, as there was a clearly superior proposal offering the best value,

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[10] The Navy analyst also [DELETED] EER's proposed direct labor rates to reflect those derived from attachment 3. EER argues that, in making these adjustments, the Navy analyst applied the full amount of EER's fringes, overhead, subcontract/material handling, and G&A costs, and argues that the direct labor costs should only have been [DELETED] by labor-related indirect costs. The record shows that the Navy analyst used the same methodology as EER used in its proposal to arrive at these adjustments, and we have no basis to question the agency's cost realism evaluation in this regard.

there was no need to enter into discussions. Id. ¶ 8. Viewing the record as a whole, we are not persuaded that the DCAA report played a significant role in the decision to make award to Veridian.

Referring to passages in the SSDD, CAP report, and business clearance memorandum, as well as the introductory sections of the M/TET report, EER argues that the cost/technical tradeoff and source selection decision were based on summary information that distorted the merits of its proposal by downplaying its strengths and exaggerating its weaknesses. EER also asserts that Veridian's proposal was selected only because it had the highest management/technical rating and because the non-cost factors were more important than cost.

Source selection officials in negotiated procurements have broad discretion in determining the manner and extent to which they will make use of technical and cost evaluation results. Mevatec Corp., B-260419, May 26, 1995, 95-2 CPD ¶ 33 at 3. In exercising that discretion they are subject only to the tests of rationality and consistency with the established evaluation criteria. Id. While the selection official's judgment must be documented in sufficient detail to show it is not arbitrary, a source selection official's failure to specifically discuss every detail regarding the relative merit of the proposals in the selection decision document does not affect the validity of the decision if the record shows that the agency's award decision was reasonable. Development Alternatives, Inc., B-279920, Aug. 6, 1998, 98-2 CPD ¶ 54 at 9.

In her source selection decision, the SSA states that her consideration of which proposal offered the best value included a review of the proposed and evaluated costs of each offeror as documented in the CET report, as well as a review of the reports prepared by the M/TET, PPET, and the CAP, as well as the business clearance memorandum. Each of these reports contains detailed information documenting the agency's evaluation of each aspect of each proposal, including their strengths and weaknesses and relative costs. The SSA concurred with the CAP report's recommendation for award to Veridian, and restated a summary of its detailed findings. The SSA went on to explain that she had considered the cost differences between Veridian and the other offerors' proposals, and described comparative differences among the proposals in relatively general terms. The SSA concluded by saying that the

> [c]ombination of the superior technical expertise and sound management approach proposed by Veridian will provide the government the best value toward meeting mission requirements with the least amount of risk. Given that management, technical expertise and past performance were the most critical factors in this source

> selection and significantly more important than cost/price, the additional costs associated with Veridian's superior proposal are warranted.

SSDD at 2.

For a proper tradeoff, the record must show that the SSA was aware of the technical advantages of the awardee's proposal, and specifically determined that those advantages were worth the awardee's higher cost. 4-D Neuroimaging, B-286155.2, B-286155.3, Oct. 10, 2001, 2001 CPD ¶ 183 at 11. There is no requirement that an agency restate each of an offeror's strengths when comparing proposals, and nothing unreasonable about the decision to not elevate any of these strengths to the tradeoff decision. Medical Dev. Int'l, B-281484.2, Mar. 29, 1999, 99-1 CPD ¶ 68 at 14. Whether or not the summaries of the evaluation results for all proposals mirrored the more detailed findings, the record shows that the SSA reviewed all of the detailed reports which, when combined, described the technical advantages of Veridian's proposal, compared the technical advantages and disadvantages of all proposals, and outlined the cost differences between proposals. The record also shows that the SSA made a specific determination that Veridian's technical advantages were worth its higher cost. While a source selection decision can certainly be more detailed than that here, a lack of detail does not, alone, affect the validity of the award decision where, as here, the SSA fully considered all of the underlying evaluation documentation in concluding that the awardee's technical advantages warranted its higher cost, and where there is no basis in the record to question the reasonableness of that judgment. Digital Sys. Group, Inc., B-286931, B-286931.2, Mar. 7, 2001, 2001 CPD ¶ 50 at 12; see also Arctic Slope World Servs., Inc., B-284481, B-284481.2, Apr. 27, 2000, 2000 CPD ¶ 75 at 15.

The protests are denied.

Anthony H. Gamboa
General Counsel