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Decision

Matter of: KBR Services, LLC; Vectrus Systems Corporation

File: B-422697.2; B-422697.5; B-422697.9; B-422697.12

Date: October 4, 2024

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DIGEST

1. Protests challenging the agency's evaluation of the awardee's proposal are sustained where the proposal was internally inconsistent with respect to the awardee's compliance with the solicitation's material small business participation requirements, and the agency unreasonably determined that the inconsistencies were resolved without reopening discussions.
 2. Protest challenging the agency's evaluation of a protester's technical proposal is denied where there is no basis to conclude that the protester was competitively prejudiced by the alleged evaluation errors.
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DECISION

KBR Services, LLC, of Houston, Texas, and Vectrus Systems Corporation, of Colorado Springs, Colorado, protest the issuance of a task order to Amentum Parsons Logistics Services LLC (APLS),¹ of Arlington, Virginia, under request for task order proposals

¹ APLS is a joint venture comprised of five members: Amentum Services, Inc. (ASI); PAE Applied Technologies, Inc.; PAE Government Services, Inc.; Parsons Government (continued...)

(RFTOP) No. W519TC-23-R-0014, issued by the Department of the Army seeking a contractor to provide Army prepositioned stock (APS) support at locations in Japan and Korea. Both protesters challenge various aspects of the agency's evaluation of the awardee's proposal, and Vectrus also protests the Army's evaluation of its proposal under the technical/management approach factor.

We sustain the protests.

BACKGROUND

The Army issued the RFTOP on May 5, 2023, under the agency's Logistics Civil Augmentation Program (LOGCAP) V indefinite-delivery, indefinite-quantity (IDIQ) contract, and pursuant to Federal Acquisition Regulation (FAR) section 16.505 procedures. AR, Tab 3a, Initial RFTOP at 1.² The RFTOP contemplated the issuance of four task orders to provide APS support in four geographic regions, with the task orders being simultaneously competed.³ AR, Tab 3k, RFTOP at 2. The solicitation stated that each of the four task orders will include a 1-year base period, a 1-year option period with two additional 6-month option periods, and an option to extend services for an additional 6 months.⁴ *Id.* at 2-3. The instant protests concern the Army's evaluation and source selection decision for the task order to support U.S. Indo-Pacific Command, referred to as APS-4. *Id.* at 2.

The solicitation established that award would be made on the basis of a best-value tradeoff using the following factors, listed in descending order of importance: technical/management approach, past performance, small business participation, and cost/price. RFTOP at 26-27. The RFTOP provided that all factors other than cost/price, when combined, were significantly more important than cost/price. *Id.* at 27.

Services, Inc.; and Parsons Government Services International, Inc. Agency Report (AR), Tab 6m, APLS Proposal Assumptions at 1. APLS was previously known as PAE-Parsons Global Logistics Services LLC (P2GLS), and in the contemporaneous record, the company is referred to as P2GLS and Amentum. For consistency, we refer to the awardee as APLS here.

The agency provided separate reports responding to KBR's and Vectrus's protests. Citations to documents in the agency report are to identical documents in each report, unless otherwise noted.

² The agency issued nine amendments to the solicitation. All citations of the RFTOP in this decision refer to the version of the RFTOP issued with amendment 9 and submitted as tab 3k to the agency reports.

³ Offerors were not required to submit proposals for all four locations, and the RFTOP stated that the agency would evaluate each proposal separately. RFTOP at 3, 27.

⁴ The task orders will include cost-plus-fixed-fee, fixed-price, and non-fee bearing cost contract line item numbers (CLINs). RFTOP at 3.

The technical/management approach factor consisted of three equally weighted subfactors: program management plan, site specific staffing plan, and adjusted labor staffing model. RFTOP at 30. The RFTOP set forth criteria for each subfactor, and it provided that the Army would assign adjectival ratings under each subfactor and a combined factor-level adjectival rating. *Id.* at 30-32. The RFTOP stated that the agency would use the following adjectival ratings in the technical/management approach evaluation: outstanding, good, acceptable, marginal, and unacceptable. *Id.* at 29-30.

For the past performance factor, the RFTOP established that the agency would assess relevancy using three equally weighted subfactors (supply, maintenance, and transportation), and assign each proposal one of the following overall integrated past performance ratings: substantial confidence, satisfactory confidence, neutral confidence, limited confidence, and no confidence. RFTOP at 37.

Pertinent here, as part of the small business participation proposal, offerors were required to submit a small business participation commitment document. RFTOP at 16. To be rated as acceptable under the small business participation factor, the offeror's proposal needed to meet or exceed the small business subcontracting goals. *Id.* at 39. For APS-4, the goals included subcontracting two percent of the value of the task order to small businesses.⁵ *Id.* The solicitation stated that a proposal must be rated as acceptable under the small business participation factor to be eligible for award. *Id.*

As also relevant here, for the cost/price factor, the RFTOP required the offeror to submit a cost/price proposal that included subcontractor costs. RFTOP at 21-23. The required subcontractor cost information varied depending on the type of subcontract. For example, the solicitation stated that if a subcontractor would support cost CLINs under a fixed-price subcontract, the offeror must provide a detailed price proposal showing the subcontractor's proposed labor categories, proposed full-time equivalents, and proposed fixed prices. *Id.* at 21.

The agency received proposals from four offerors, including KBR, Vectrus, and APLS. KBR Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 21; Vectrus COS/MOL at 24. The Army evaluated initial proposals, established a competitive range with the four offerors, conducted multiple rounds of discussions, and asked the offerors to submit final proposal revisions by January 31, 2024. KBR COS/MOL at 21-22; Vectrus COS/MOL at 24-25.

⁵ In addition to the two percent small business subcontracting goal, the RFTOP established subcontract goals for five socioeconomic program categories. RFTOP at 38. For example, the goal for woman-owned small business subcontracting was one percent of the task order value. *Id.* The RFTOP provided that to be rated as acceptable under the small business participation subfactor, the offeror's proposal must meet or exceed the goal for each socioeconomic program--or provide a reasonable rationale as to why the goal could not be met. *Id.* at 39.

In the course of evaluating APLS's final proposal revisions, the Army identified contradictory language in APLS's proposal with respect to its proposed small business subcontracting. KBR AR, Tab 65, Clarification Request at 1; Vectrus AR, Tab 79, Clarification Request at 1. Namely, although APLS stated in its small business participation proposal that it would meet the small business subcontracting goals, its technical proposal stated that APLS would self-perform all of the task order requirements. KBR AR, Tab 65, Clarification Request at 1; Vectrus AR, Tab 79, Clarification Request at 1. Further, consistent with APLS's proposed self-performance, APLS's cost/price proposal did not include any subcontractor cost or price information, and it listed all personnel as APLS employees. AR, Tab 6n, APLS Cost/Price Proposal at INDOPACOM APS-4 Cost-Build Worksheet.

After identifying this inconsistency, the contracting officer emailed APLS and wrote: "Because of these contradictions, the [agency] wants to confirm that it is [APLS's] intent to use small businesses in accordance with its small business participation proposal. Is that correct? Please respond with a yes or no. . . ." KBR AR, Tab 65, Clarification Request at 1; Vectrus AR, Tab 79, Clarification Request at 1. The agency added that it would not accept additional language or documents. APLS responded that it intended to utilize small businesses in accordance with its small business participation proposal, but pursuant to the Army's limitation, it did not revise its technical or cost/price proposals. KBR AR, Tab 65, Clarification Request at 1; Vectrus AR, Tab 79, Clarification Request at 1.

Subsequently, the agency prepared a supplemental pricing support memorandum. KBR AR, Tab 63, Supp. Pricing Memo; Vectrus AR, Tab 77, Supp. Pricing Memo. In the memorandum, the agency referenced the contradiction in APLS's proposal concerning small business subcontracting and stated:

Since the Small Business Participation is a contract requirement that is reflected in the Small Business volume but not reflected in [APLS's] Cost/Price proposal cost elements, the [contracting officer] identified this as a potential risk and requested the pricing department's assistance to quantify [APLS's] Small Business Participation and corresponding commitment requirement. The [contracting officer] requested that [APLS's] Cost/Price proposal is adjusted from reflecting "self-performance" to reflect that of [APLS's] Small Business Participation commitment.

KBR AR, Tab 63, Supp. Pricing Memo at 3; Vectrus AR, Tab 77, Supp. Pricing Memo at 3. In short, the agency revised APLS's cost/price proposal in an attempt to eliminate the inconsistency and provide the missing information.⁶

⁶ The Army viewed the inconsistency in APLS's proposal as a "potential risk," and created a risk-adjusted price by adding two percent of APLS's total proposed cost/price to APLS's proposed cost/price, to reflect the percentage of the total task order value APLS stated that it would subcontract to small businesses in its small business

(continued...)

The agency summarized its evaluation of KBR's, Vectrus's, and APLS's proposals as follows:

	KBR	Vectrus	APLS
Technical/Management Approach	Good	Acceptable	Good
Program Management Plan	Good	Acceptable	Good
Site-Specific Staffing Plan	Acceptable	Acceptable	Acceptable
Adjusted Labor Staffing Model	Acceptable	Acceptable	Acceptable
Past Performance	Satisfactory	Neutral	Satisfactory
Small Business Participation	Acceptable	Acceptable	Acceptable
Cost/Price	\$110,516,699	\$112,182,555	\$63,694,811 ⁷

AR, Tab 34b, Briefing to Source Selection Authority (SSA) at 11.

The SSA reviewed the evaluators' findings--including the findings regarding the internal inconsistency in APLS's proposal concerning the use of small business subcontractors. AR, Tab 36, Source Selection Decision Document (SSDD) at 14. Specifically, the SSA stated: "While conducting a review of [APLS's] price, it was discovered that there was a contradiction in [APLS's] proposal. There were no subcontractors proposed in the technical or cost volume and it was stated that [APLS] would 'self-perform' the work . . ." *Id.* at 12. The SSA then referenced the clarification question sent to APLS and its response, and the SSA stated that he concurred with rating APLS's proposal as acceptable under the small business participation factor. *Id.* The SSA also referenced the risk-adjusted price, intended to represent what APLS's price would be if it met the two percent small business subcontracting requirement. *Id.* at 15.

After discussing the findings for each proposal under the evaluation factors, the SSA stated that he found that the proposals submitted by APLS and KBR were superior to the proposals submitted by Vectrus and the fourth offeror. AR, Tab 36, SSDD at 16. The SSA reviewed the strengths assigned to KBR's and APLS's proposals, found the benefits offered were equal, and there were no meaningful distinctions between the two technical proposals. *Id.* The SSA stated that cost/price was therefore the controlling factor, and the agency selected APLS's proposal for award. *Id.* at 17.

participation proposal (which was the amount required by the RFTOP). KBR AR, Tab 63, Supp. Pricing Memo at 3; Vectrus AR, Tab 77, Supp. Pricing Memo at 3.

⁷ This number does not include the two percent risk adjustment that the agency added, as discussed above. The risk-adjusted price was \$64,968,708. KBR AR, Tab 63, Supp. Pricing Memo at 3; Vectrus AR, Tab 77, Supp. Pricing Memo at 3.

The Army issued the task order to APLS and, following debriefings, KBR and Vectrus filed these protests.⁸

DISCUSSION

KBR and Vectrus challenge various aspects of the Army's evaluation of APLS's proposal, and Vectrus also protests the agency's evaluation of its own proposal under the technical/management approach factor. Many of the protesters' allegations focus on the Army's consideration of the inconsistencies in APLS's proposal. As discussed below, we find the Army's evaluation of the inconsistencies in APLS's proposal unreasonable, and we sustain the protests on that basis. While we do not discuss all of the protesters' remaining allegations, we have considered them all and find none provides any additional basis to sustain the protests.⁹

At the outset, we note that in reviewing protests of the issuance of a task order, our Office will not reevaluate proposals, but will examine the record to determine whether the evaluation and source selection decision were reasonable and consistent with the solicitation and applicable procurement law and regulation. *Ohio KePRO, Inc.*, B-417836, B-417836.2, Nov. 18, 2019, 2020 CPD ¶ 47 at 4. We will question an agency's conclusions where they are inconsistent with the solicitation's evaluation criteria, undocumented, or not reasonably based. *Peraton, Inc.*, B-417358, B-417358.2, June 11, 2019, 2019 CPD ¶ 216 at 7.

⁸ The value of the protested task order exceeds \$25 million. Accordingly, this protest is within our jurisdiction to hear protests of task orders placed under defense agency IDIQ contracts. 10 U.S.C. § 3406(f)(1)(B).

⁹ For example, both protesters argue that it was unreasonable for the agency to assign APLS's proposal a rating of satisfactory confidence under the past performance factor because APLS has a record of poor performance as the incumbent on two LOGCAP task orders for similar work. KBR Protest at 22-24; Vectrus Protest at 59-60. An agency's evaluation of past performance is a matter within the agency's discretion and, by its very nature, is subjective; GAO will not substitute its judgment for reasonably based evaluation ratings. An offeror's disagreement with an agency's evaluation judgments, without more, does not demonstrate that those judgments are unreasonable. *Janus Global Operations, LLC*, B-418980 *et al.*, Nov. 10, 2020, 2020 CPD ¶ 377 at 14. In assessing past performance, it is proper for the agency's evaluation to reflect the totality of an offeror's prior contract performance, and in appropriate circumstances, an agency may reasonably assign a satisfactory rating to a proposal despite the fact that portions of the offeror's prior performance have been unsatisfactory. *Id.* Here, the record demonstrates that the agency considered the totality of APLS's past performance, including positive and negative information, and reasonably assigned a rating of satisfactory confidence. AR, Tab 35, Source Selection Evaluation Board Report at 15-16.

Consideration of the Inconsistencies in APLS's Proposal

The protesters assert that the Army's attempt to resolve the inconsistencies in APLS's proposal without reopening discussions was improper and unreasonable. As discussed below, we agree that the agency's evaluation under the small business participation factor and the cost/price factor failed to resolve the flaws in APLS's proposal.

Acceptability under the Small Business Participation Factor

First, the protesters argue that APLS's proposal should have been rated as unacceptable under the small business participation factor because, although APLS represented that it would meet the small business subcontracting requirements in its small business participation proposal, information in APLS's technical proposal and cost/price proposal stated that APLS would self-perform all of the work, indicating that it would not meet the mandatory small business participation goals. KBR Comments & Supp. Protest at 9-13; Vectrus Comments & Supp. Protest at 6-7. The agency responds that the contradiction was resolved through the request for clarification in which the Army asked APLS if it intended to use small business subcontractors in accordance with its small business participation proposal. KBR Supp. COS/MOL at 6-8; Vectrus Supp. COS/MOL at 7-9.

As a general matter, in evaluating proposals, an agency may reasonably accept as accurate information provided by an offeror in its proposal. *FEDSYNC BEI, LLC*, B-417492, B-417492.2, July 23, 2019, 2019 CPD ¶ 303 at 7. Nonetheless, an agency may not accept proposal representations at face value where there is significant countervailing evidence reasonably known to the agency evaluators that should create doubt as to whether the representations are accurate. *Id.* at 7-8; *see also Alpha Marine Servs., LLC*, B-292511.4, B-292511.5, Mar. 22, 2004, 2004 CPD ¶ 88 at 4. Further, it is a fundamental principle that a proposal that fails to conform to a material solicitation requirement is technically unacceptable and cannot form the basis of award. *Global Patent Sols., LLC*, B-421602.2, B-421602.3, Feb. 23, 2024, 2024 CPD ¶ 58 at 7.

Here, APLS's technical proposal and cost/price proposal represented that APLS would self-perform the task order requirements. AR, Tab 6d, APLS Technical Proposal at 1; AR, Tab 6n, APLS Cost/Price Proposal. These aspects of APLS's proposal were inconsistent with APLS's small business participation proposal, where APLS stated it would subcontract two percent of the value of the task order to small businesses and noncompliant with the RFTOP's requirement to meet or exceed the two percent small business subcontracting goal. KBR AR, Tab 59, APLS Small Business Participation Proposal at 1; Vectrus AR, Tab 73, APLS Small Business Participation Proposal at 1; RFTOP at 39. After the agency closed discussions, the Army identified this contradiction and asked APLS to confirm that it intended to use small business subcontractors in accordance with the firm's small business participation proposal. KBR AR, Tab 65, Clarification Request at 1; Vectrus AR, Tab 79, Clarification Request at 1; KBR Supp. COS/MOL at 4-6; Vectrus Supp. COS/MOL at 7-8. APLS responded affirmatively, but it made no revisions to its technical or cost/price proposals to reflect

any small business subcontracting. Nonetheless, the agency determined that APLS's proposal warranted a final rating of acceptable under the small business participation factor. AR, Tab 36, SSDD at 12.

It is undisputed that APLS's proposal was internally inconsistent with respect to the firm's use of small business subcontractors.¹⁰ KBR Supp. Comments at 4-5; Vectrus Supp. Comments at 4; KBR Supp. COS/MOL at 4; Vectrus Supp. COS/MOL at 7-8. The dispute here centers on the question of whether the contradiction could be resolved through the Army's request for clarification.

Here, we find that the Army's email exchange with APLS did not resolve the contradiction because, notwithstanding APLS's statement that it would meet the small business subcontracting requirements, its technical proposal and cost proposal remained unchanged and continued to reflect APLS's intent to self-perform the task order. To resolve the inconsistency, and to make its proposal compliant with the terms of the solicitation, APLS would have needed to revise the other aspects of its proposal to reflect the use of small business subcontractors; in other words, the agency would have needed to engage in discussions.¹¹ See FAR 15.306(d). However, the agency foreclosed that possibility in its request for clarification when the agency told APLS that nothing other than a yes or no response would be accepted. KBR AR, Tab 65,

¹⁰ We note that although the contemporaneous evaluation documents identify the contradiction in APLS's proposal (KBR AR, Tab 63, Supp. Pricing Memo at 3-4; Vectrus AR, Tab 77, Supp. Pricing Memo at 3-4; AR, Tab 36 SSDD at 12) and the agency acknowledges the existence of the contradiction in its post-protest arguments (see KBR Supp. COS/MOL at 4-6; Vectrus Supp. COS/MOL at 7-8), in a statement submitted to our Office responding to the protest allegations, the SSA states he did not view APLS's proposal as having an inconsistency. KBR AR, Tab 54, SSA Response; Vectrus AR, Tab 68, SSA Response. We reject the SSA's *post hoc* assertions as inconsistent with the contemporaneous record, where the SSA expressly acknowledged the existence of the contradiction. AR, Tab 36, SSDD at 12 ("While conducting a review of [APLS's] price, it was discovered that there was a contradiction in [APLS's] proposal."). See *Insight Tech. Sols., Inc.*, B-420133.2 *et al.*, Dec. 20, 2021, 2022 CPD ¶ 13 at 12 ("[W]e give little weight to *post hoc* statements that are inconsistent with the contemporaneous record.").

¹¹ We note while FAR part 15 regulations concerning discussions do not, as a general rule, govern task and delivery order competitions conducted under part 16, our decisions use the requirements under part 15 as a guide when considering the fairness of communications under part 16. *Kratos Defense & Rocket Support Servs., Inc.*, B-418172.2, Jan. 26, 2021, 2021 CPD ¶ 37 at 6 n.6. Under this framework, the internal inconsistency in APLS's proposal could not have been resolved through clarifications as clarifications cannot be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, or otherwise revise the proposal. *LINTECH, LLC*, B-409089, B-409089.2, Jan. 22, 2014, 2014 CPD ¶ 38 at 8; *FPM Remediations, Inc.*, B-407933.2, Apr. 22, 2013, 2013 CPD ¶ 107 at 4.

Clarification Request at 1; Vectrus AR, Tab 79, Clarification Request at 1. As a result, the contradiction remained after APLS responded to the clarification request. APLS's technical proposal and cost proposal still demonstrated that APLS would self-perform the task order.

Given the significant countervailing evidence in APLS's proposal, it was unreasonable for the agency to accept APLS's representation that it would comply with the small business subcontracting requirements. *Innovative Mgmt. & Tech. Approaches, Inc.*, B-418823.3, B-418823.4, Jan. 8, 2021, 2021 CPD ¶ 18 at 8 (an agency may not accept at face value a promise to meet a material requirement where there is significant countervailing evidence reasonably known to the agency evaluators that should create doubt about whether the offeror will or can comply with that requirement.). Accordingly, it was unreasonable to rate APLS's proposal as acceptable under the small business participation factor, and we sustain the protesters' allegations.¹²

Agency's Attempt to Reconcile the Inconsistency in APLS's Cost/Price Proposal

The protesters assert that the agency's additions to APLS's cost/price proposal--which failed to comply with the RFTOP requirement to present subcontractor cost/price information--was unreasonable. In this context, the protesters elaborate that the Army's calculation of a risk-adjusted price as a method to provide the required proposal information--rather than reopening discussions--was unreasonable. KBR Comments & Supp. Protest at 14-16; Vectrus Supp. Comments at 15-17. The Army responds that it reasonably addressed the internal inconsistency in APLS's proposal by creating the risk-adjusted priced. Vectrus Supp. COS/MOL at 8-9.

We agree with the protesters that APLS's proposal did not include the information required by the RFTOP; APLS's cost/price proposal was inconsistent with the firm's small business participation proposal; and the Army was not permitted to impute the required information that APLS did not provide, under the guise of a cost realism evaluation. Here, the solicitation required offerors to include subcontractor cost/price information in the proposal--regardless of subcontract type. RFTOP at 21-23. The agency recognized that APLS failed to provide the required information, as its cost/price proposal did not include *any* subcontractor cost/price information. Accordingly, as submitted, APLS's proposal did not comply with the requirements of the RFTOP and

¹² As noted above, in addition to the two percent small business subcontracting goal, the RFTOP established goals for five socioeconomic program categories, and it provided that to be rated as acceptable under the small business participation factor, an offeror must meet all of the goals or provide an explanation as to why a given goal could not be met. RFTOP at 38-39. In their submissions to our Office, the parties focus on whether APLS's proposal satisfied the two percent requirement. For the reasons discussed herein, namely, that APLS proposed to self-perform all of the task order requirements, we find the Army's conclusion that APLS's proposal met the subcontracting goals for the five socioeconomic program categories was also unreasonable.

could only be cured through discussions and the submission of a revised proposal. *LINTECH, LLC; FPM Remediations, Inc., supra.*

Instead of reopening discussions to obtain the required information, however, the Army assumed that subcontractors would use the same approach and rates as APLS had listed for self-performance. KBR AR, Tab 54, SSA Response at 1 (“I have no reason to believe that a subcontractor’s approach and rates would be dissimilar to APLS’--*if and when*--APLS would subcontract the level of effort proposed”); Vectrus AR, Tab 68, SSA Response at 1 (same). The Army created a risk-adjusted price using those assumptions, and it relied on the risk-adjusted price in rating APLS’s proposal as eligible for award. AR, Tab 36, SSDD at 12, 15.

We do not view the agency’s creation of a risk-adjusted price as an appropriate resolution of the contradictions within APLS’s proposal. Rather, by creating a risk-adjusted price, the agency effectively recognized that APLS’s proposal lacked any subcontractor cost/pricing information, which was specifically required by the RFTOP. RFTOP at 21-23. Given the significant countervailing evidence in APLS’s proposal concerning small business subcontracting--and APLS’s failure to include any subcontractor cost/price information in its proposal--it was unreasonable for the Army to attempt to cure APLS’s incomplete, and consequently unacceptable, proposal through the creation of a risk-adjusted price. *LINTECH, LLC; FPM Remediations, Inc., supra.* Accordingly, we sustain the allegations.

Evaluation of Vectrus’s Technical Proposal

Additionally, Vectrus challenges the agency’s evaluation of Vectrus’s technical proposal, arguing that the Army failed to identify three specific strengths in its proposal.¹³ Vectrus Protest at 66-67. For each allegedly overlooked strength, Vectrus discusses, with particularity, the relevant portion of its proposal, the RFTOP requirement that its approach exceeded, and the benefits provided to the agency.¹⁴ Vectrus contends that if

¹³ Vectrus also contends that the Army’s evaluation of its technical proposal was unreasonable because the agency assigned a strength to the proposal of another unsuccessful offeror and failed to assign a strength to Vectrus’s proposal when the protester asserts its proposal featured the same positive aspect. Vectrus Comments & Supp. Protest at 37-39. Our Office has recognized that generally no competitive prejudice can flow from alleged disparate treatment with respect to other unsuccessful offerors. *Operations Servs., Inc.*, B-420226, Jan. 4, 2022, 2022 CPD ¶ 21 at 5 n.4. Competitive prejudice is an essential element of any viable protest, and where none is shown or otherwise evident, we will not sustain a protest, even if a protester may have shown that an agency’s actions arguably were improper. *Operations Servs., supra.* Accordingly, Vectrus’s challenges in this regard lack merit.

¹⁴ For example, Vectrus explains that the RFTOP required offerors to detail how they would “respond to repair parts unavailability,” and it points to information in its proposal discussing how Vectrus would [REDACTED]. Vectrus Protest at 66.

the agency had recognized these strengths, its proposal would have received a better rating than acceptable. Vectrus Comments & Supp. Protest at 32. In responding to the protest, the Army did not address the substance of the allegations; instead, the Army asserts that the rating assigned under the technical and management approach factor was based on the following three elements: (1) the proposal's approach and understanding of the requirements, (2) the proposal's strengths and weaknesses, and (3) the risk of unsuccessful performance. Vectrus COS/MOL at 61 (*citing* RFTOP at 30). The agency states because the protester has challenged the evaluation of only the second element--the number of strengths and weaknesses--and the protester's proposal did not satisfy the criteria for a higher rating under the other two elements, increasing the number of strengths or significant strengths in Vectrus's proposal would not have changed the rating assigned under the technical and management approach factor, and therefore Vectrus was not prejudiced. *Id.* at 61-62.

Where a protester raises a challenge regarding an alleged failure to properly assess strengths, an agency has an obligation to provide a responsive explanation to the allegations. *Tech Marine Bus., Inc.*, B-420872 *et al.*, Oct. 14, 2022, 2022 CPD ¶ 260 at 6; *see also* *ITility, LLC*, B-421871.3, B-421871.4, May 3, 2024, 2024 CPD ¶ 102 at 5 (where an agency does not substantively respond to a protest allegation and does not contest the merits, we view the agency as having effectively conceded that the arguments have merit); *TriCenturion, Inc.; Safeguard Servs., LLC*, B-406032 *et al.*, Jan. 25, 2012, 2012 CPD ¶ 52 at 17 (same); *cf.* *Cognosante MVH, LLC*, B-418986 *et al.*, Nov. 13, 2020, 2021 CPD ¶ 3 at 7-8 (finding the statements from the evaluators and contracting officer responding to the protester's arguments demonstrated the reasonableness of the agency's decision not to assign the challenged strengths). An agency's evaluation of proposals, source selection decision, or post-protest explanations should be in sufficient detail to allow for the review of the merits of a protest. *Tech Marine, supra*.

Here, the agency provides no explanation--contemporaneous or otherwise--to support the reasonableness of its evaluation of Vectrus's proposal. The agency does not rebut the substance of the detailed discussion in Vectrus's protest and address why the aspects of Vectrus's proposal at issue here did not warrant strengths. Instead, the Army broadly asserts that identifying additional strengths or significant strengths would not change the adjectival rating assigned to the protester's proposal. Vectrus COS/MOL at 62. Because the agency's sole defense is its assertion that Vectrus cannot establish that it was prejudiced by the alleged errors, our resolution of the protester's allegations necessarily turns on the resolution of that question. As discussed below, we decline to find that Vectrus was prejudiced by the agency's alleged evaluation errors because the record demonstrates that even with the assessment of additional strengths, it is unlikely that Vectrus's proposal would have been selected for award.

Our Office has consistently stated that to prevail, a protester must demonstrate that it has been prejudiced by the agency's errors. 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 prejudice, and our Office will not sustain the protest, even if deficiencies in the procurement are found. *Perspecta Enter. Sols., LLC*, B-418533.2, B-418533.3, June 17, 2020, 2020 CPD ¶ 213 at 28; *HP Enter. Servs., LLC*, B-411205, B-411205.2, June 16, 2015, 2015 CPD ¶ 202 at 6.

On the record here, viewing the issues in the light most favorable to Vectrus, we have no basis to conclude that assigning three additional strengths to Vectrus's technical proposal would overcome KBR's evaluated advantages. Here, as noted above, Vectrus proposed the highest cost/price of the three offerors, and its proposal was rated as neutral under the past performance factor.¹⁵ AR, Tab 34b, Brief to SSA at 11. Vectrus does not argue that assessing three additional strengths would increase the rating its proposal received under the technical/management factor from acceptable to outstanding. As such, even with the additional strengths, Vectrus's higher-priced proposal would have received the same rating as KBR's proposal under the technical/management approach factor.¹⁶ Accordingly, increasing the rating assigned to Vectrus's proposal under the technical/management approach factor would not have changed the standing of the offerors, and for this reason, we find it is highly unlikely Vectrus's proposal would have had a substantial chance of being selected for award.

Thus, we conclude that to the extent the Army erred in evaluating Vectrus's technical proposal, the errors did not result in competitive prejudice because KBR's proposal remains lower-priced and higher-rated. Accordingly, we deny this allegation.

RECOMMENDATION

In light of the agency's improper issuance of a task order to APLS on the basis of a proposal that failed to meet a material solicitation requirement, we recommend that the agency evaluate the offerors' proposals consistent with the solicitation and this decision to include reopening discussions and soliciting revised proposals as appropriate and make a new source selection decision. If APLS is not selected for award as part of the new source selection decision, we recommend that the agency terminate APLS's task order for the convenience of the government. In addition, we recommend that the protesters be reimbursed their costs of filing and pursuing the protests, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protesters should submit their claims for such costs, detailing and certifying the time expended and costs incurred,

¹⁵ In its initial protest, Vectrus challenged the agency's evaluation of its proposal under the past performance factor (Vectrus Protest at 60); Vectrus later withdrew its arguments. Vectrus Comments & Supp. Protest at 1.

¹⁶ We note that in the SSDD, the SSA wrote: "Although the neutral ratings have no negative effect regarding my performance confidence for [the fourth offeror] and Vectrus, I find the experience presented in obtaining the Satisfactory ratings by [APLS] and KBR bolsters my confidence of performance for those two above [the fourth offeror] and Vectrus." AR, Tab 36, SSDD at 16.

with the contracting agency within 60 days of receiving this decision. 4 C.F.R. § 21.8(f)(1).

The protests are sustained.

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