



**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

# Decision

**Matter of:** MSI-Tetra Tech

**File:** B-414517; B-414517.2

**Date:** June 22, 2017

---

Holly A. Roth, Esq., and Sarah S. Wronsky, Esq., Reed Smith LLP, for the protester. David S. Cohen, Esq., John J. O'Brien, Esq., and Daniel J. Strouse, Esq., Cohen Mohr LLP, for DAI Global, LLC, the intervenor.

John B. Alumbaugh, Esq., United States Agency for International Development, for the agency.

Jonathan L. Kang, Esq., and Laura Eyester, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

## DIGEST

1. Protest of the evaluation of the protester's key personnel is denied where the record shows that the evaluation was consistent with the terms of the solicitation and the agency reasonably documented the evaluation.
  2. Protest that the agency failed to conduct meaningful discussions is denied where, regardless of the adequacy of discussions regarding one deficiency, the protester was not prejudiced by any possible errors.
  3. Protest of the evaluation of the awardee's technical proposal is denied where the evaluation was reasonable and consistent with the terms of the solicitation.
- 

## DECISION

MSI-Tetra Tech, of Arlington, Virginia, protests the award of a contract to DAI Global, LLC, of Bethesda, Maryland, under request for proposals (RFP) No. SOL-267-16-000005, which was issued by the United States Agency for International Development (USAID) for support of the Iraq Governance and Performance Accountability Project (IGPA). MSI argues that USAID unreasonably evaluated its proposed key personnel, failed to conduct meaningful discussions, and unreasonably evaluated the offerors' technical proposals.

We deny the protest.

## BACKGROUND

USAID issued the RFP on July 12, 2016, seeking proposals to support the IGPA. The IGPA is a government decentralization and governance reform initiative intended to enable the Iraqi government to better respond to citizen needs in the areas of inclusive governance, public sector performance, domestic resource mobilization, accountability, and economic development. Agency Report (AR), Tab 8A, Statement of Objectives (SOO), at 1. The RFP included a SOO, which listed the following four objectives: (1) enhance government of Iraq service delivery capacity, (2) improve public financial management; (3) strengthen monitoring and oversight of service delivery and public expenditure; and (4) support Iraqi change agents. Id. Offerors were to submit a technical proposal and performance work statement that addressed how the offeror will meet the objectives set forth in the SOO. AR, Tab 8, RFP, at L.7.

The RFP anticipated the award of a cost-plus-fixed-fee contract with a base period of 1 year and three 1-year options. Id. at B.3. The solicitation identified the following three non-cost evaluation factors, which were listed in descending order of importance: (1) performance work statement, which had the following five equally-weighted subfactors: (a) political economy, (b) technical approach, (c) flexibility/revisions, (d) budget and elections, and (e) vulnerable populations; (2) activity administration, which had the following three equally-weighted subfactors: (a) management plan, (b) ability to mobilize technical assistance, and (c) key personnel; and (3) past performance, which had the following six equally-weighted subfactors: (a) quality of product or service, (b) cost control, (c) schedule, (d) business relations, (e) regulatory compliance, and (f) small business utilization. Id. at M.3; AR, Tab 31, Source Selection Decision Document (SSDD), 4-5. For purposes of award, the RFP stated that award would be made on a best-value tradeoff basis and that the non-cost factors, when combined, were “significantly more important” than cost. RFP at M.2.d.

USAID received proposals from four offerors, including MSI and DAI, by the closing date of July 16. AR, Tab 18, Competitive Range Determination, at 2. The agency evaluated the initial proposals, established a competitive range consisting of MSI and DAI, and conducted discussions with these firms. The agency then received and evaluated revised proposals. The final evaluation ratings for MSI and DAI were as follows:<sup>1</sup>

---

<sup>1</sup> For the performance work statement and activity administration factors, the agency assigned one of the following ratings: exceptional, very good, satisfactory, marginal, or unsatisfactory. AR, Tab 31, SSDD, at 2-3. For the past performance factor, the agency assigned one of the following ratings: exceptional, very good, satisfactory, marginal, unsatisfactory, or neutral. Id. at 2-4.

	MSI	DAI
<b>PERFORMANCE WORK STATEMENT</b>	<b>SATISFACTORY</b>	<b>EXCEPTIONAL</b>
Political economy	Satisfactory	Exceptional
Technical approach	Satisfactory	Exceptional
Flexibility/revisions	Satisfactory	Exceptional
Budget and elections	Satisfactory	Very Good
Gender	Very Good	Very Good
<b>ACTIVITY ADMINISTRATION</b>	<b>SATISFACTORY</b>	<b>VERY GOOD</b>
Management plan	Satisfactory	Very Good
Ability to mobilize technical assistance	Very Good	Very Good
Key personnel	Unsatisfactory	Exceptional
<b>PAST PERFORMANCE</b>	<b>VERY GOOD</b>	<b>VERY GOOD</b>
Quality of product or service	Very Good	Very Good
Cost control	Very Good	Satisfactory
Schedule	Very Good	Very Good
Business relations	Very Good	Satisfactory
Regulatory compliance	Very Good	Very Good
Small business concerns	Very Good	Neutral
<b>OVERALL RATING</b>	<b>SATISFACTORY</b>	<b>EXCEPTIONAL</b>
<b>EVALUATED COST</b>	<b>\$149,839,523</b>	<b>\$160,010,152</b>

AR, Tab 30, Final Technical Evaluation Committee (TEC) Report, at 4-5; Tab 31, SSDD, at 5; Tab 32, Notice of Award & Debriefing, at 5.

The contracting officer, who was also the source selection authority, selected DAI's proposal for award of the contract. The contracting officer found that "DAI's exceptional technical proposal is significantly higher rated than Tetra Tech-MSI's satisfactory technical proposal," particularly under the performance work statement factor and the management and key personnel subfactors of the activity administration factor. AR, Tab 31, SSDD, at 14-15. With regard to key personnel, the contracting officer found that DAI had a "significant advantage" because "[a]ll of DAI's key personnel were considered strong and as a group they were exceptional," whereas "MSI had two strong key personnel but offered two individuals that were deficient." *Id.* at 15. The contracting officer concluded that the "significantly superior technical approach" in DAI's proposal merited its higher evaluated cost as compared to MSI's lower-rated, lower-cost proposal. *Id.* at 15-16.

USAID provided the protester a combined notice of award and debriefing on March 16, 2017, and this protest followed.

## DISCUSSION

MSI challenges the award of the contract to DAI based on three primary arguments: (1) USAID improperly assessed deficiencies to two of its proposed key personnel, (2) the agency failed to conduct meaningful discussions regarding the evaluation of its key personnel, and (3) the agency's evaluation failed to consider offerors' activity monitoring evaluation plans (AMEP), as required by the RFP. For the reasons discussed below, we conclude that the agency reasonably assessed a deficiency regarding one of MSI's proposed key personnel, and that this deficiency rendered its proposal ineligible for award. We also conclude that, in light of the key personnel evaluation, the protester cannot demonstrate any possible prejudice regarding the agency's conduct of discussions. Finally, we find no basis to conclude that the agency failed to reasonably evaluate the offerors' proposals regarding the AMEP requirement. For these reasons, we find no basis to sustain the protest.<sup>2</sup>

The evaluation of an offeror's proposal is a matter within the agency's discretion. National Gov't Servs., Inc., B-401063.2 et al., Jan. 30, 2012, 2012 CPD ¶ 59 at 5. A protester's disagreement with the agency's judgment in its determination of the relative merit of competing proposals, without more, does not establish that the evaluation was unreasonable. VT Griffin Servs., Inc., B-299869.2, Nov. 10, 2008, 2008 CPD ¶ 219 at 4.

### Evaluation of MSI's Key Personnel

MSI argues that USAID unreasonably assessed deficiencies for two of the protester's proposed key personnel and assigned its proposal an overall unsatisfactory rating for the key personnel subfactor of the activity administration factor. For the reasons discussed below, we conclude that the agency reasonably found that one of the two proposed key personnel failed to meet the solicitation's requirements; as a result, we conclude that the agency reasonably found the protester's proposal ineligible for award, overall.

As discussed above, the RFP included a SOO which set forth four objectives for the IGPA requirement. Offerors were required to submit a technical proposal and a performance work statement which addressed how they would meet the objectives set forth in the SOO, as follows:

The Technical Proposal and Performance Work Statement in response to this solicitation must address how the offeror intends to meet the

---

<sup>2</sup> Although MSI raises other collateral issues that we do not discuss, we have reviewed all of the protester's arguments and find that none provide a basis to sustain the protest. In addition, the protester also challenged other aspects of the evaluation of its proposal under the non-cost factors, but subsequently withdrew those arguments. Protester's Comments (May 8, 2017) at 2.

objectives as described in the Statement of Objectives contained in Section J.1 of this RFP. It must also contain a clear understanding of the work to be undertaken and the responsibilities of all parties involved. The technical proposal must offer original, critical thinking and analysis, related to each component and it will tie the technical approach to deliverables and results to be achieved.

RFP at L.7.

The key personnel subfactor of the activity administration factor required offerors to propose a chief of party (COP) and three additional key personnel, to be defined by the offeror, as follows:

Offer a qualified Chief of Party per the qualifications in Section F.7. The other three key personnel will be evaluated based on the minimum requirements in Section F.7, the relative importance of the position for successful implementation of the award and the nexus between the role and responsibilities of the position and the qualifications of the individual proposed.

RFP at M.3.b.3.

MSI proposed key personnel for the following three positions, in addition to the COP: (1) deputy chief of party (DCOP), (2) objective 1 team lead, and (3) objective 2 team lead. AR, Tab 15, MSI Initial Proposal, at 29-31; Tab 29, MSI Final Revised Proposal, at 33-35. USAID's evaluation of MSI's initial technical proposal assessed deficiencies for the DCOP and objective 1 team lead positions. AR, Tab 18, Competitive Range Memorandum, at 3, 9.

During discussions, the agency advised MSI of concerns regarding its proposed DCOP, objective 1 team lead, and objective 2 team lead, and provided the protester an opportunity to submit a revised proposal. AR, Tab 20, Request for Final Proposal Revisions, at 4-5. MSI's revised proposal included new individuals for the DCOP and objective 1 team lead positions, and a revised resume for the objective 2 team lead. AR, Tab 29, MSI Final Revised Proposal, at 34-35. The agency's evaluation of MSI's revised proposal assessed a strength for the new DCOP, but assessed deficiencies for the objective 1 team lead and objective 2 team lead. AR, Tab 30, Final TEC Report, at 46-48. The award decision concluded that "the key personnel subfactor was ultimately unsatisfactory as two of the individuals were deficient," and that "[t]hese deficiencies raised the risk of unsuccessful performance to an unacceptable level." AR, Tab 31, SSDD, at 11.

#### Evaluation of MSI's Objective 1 Team Lead

As discussed above, the IGPA project is a decentralization and governance reform effort that is intended to aid the Iraqi government in improving responsiveness to its

citizens. AR, Tab 8A, SOO, at 1; Contracting Officer's Statement (COS) at 3. The SOO stated that the objectives of the IGPA must address ongoing government decentralization efforts, that is, transitioning away from an approach to the provision of services through centralized government ministries. See AR, Tab 8A, SOO, at 4-6. The SOO stated that objective 1 was intended to enhance the ability of the Iraqi government to improve service delivery outcomes, particularly in "sectors with potential for high impact and visibility." Id. at 4. The SOO further provided that objective 1 was intended to ensure that "service delivery outcomes [are] better aligned with the priorities of provincial governments and local populations when line ministry personnel and functions are decentralized." Id.

MSI's proposal described the roles and responsibilities for the objective 1 team lead as follows:

- Oversee technical quality of all Objective 1 activities
- Collaborate with objective leads and the provincial team lead
- Manage technical advisors supporting service delivery work at the local and national levels
- Maintain strong working relationship with all ministerial, provincial and other stakeholders
- Design, implement and report on service delivery activities

AR, Tab 29, MSI Final Revised Proposal, at 35.

USAID's evaluation of MSI's proposed objective 1 team lead found that this position "is critical for service delivery outcomes," but also concluded that the individual proposed was "deficient for the position." AR, Tab 30, Final TEC Report, at 48. The agency concluded that the individual met the minimum education and experience requirements set forth in the solicitation. However, the agency identified concerns in three primary areas of the individual's resume and experience as it relates to the roles and responsibilities set forth in MSI's performance work statement for the objective 1 team lead in the area of experience with service delivery.

First, the agency concluded that although the individual's resume listed extensive experience "setting up Citizens' Service Desks as part of the USAID Taqadum decentralization project, reference checks confirmed that his knowledge and experience with regards to decentralization clearly were inflated in his resume that was submitted with the revised proposal." Id.

Second, the agency noted that although the proposed individual is "an experienced engineer," the agency found that he "has practically no experience in enhancing service delivery through engaging citizens and stakeholders like [civil society organizations

(CSOs)].” Id. In this regard, the agency stated that “[e]ngaging citizens and working with CSOs are critical to the success of Objective 1 and to IGPA overall, so this is a major concern for the TEC.” Id.

Third, the agency found that “[r]eference checks led the TEC to determine that [the individual] clearly also does not satisfy the critical position requirement ‘Demonstrated leadership and management skills; experience managing a multidisciplinary team.’” Id. In this regard, the agency cited reference checks which stated that the individual “is a hard-working engineer who fixates on details while micromanaging and demoralizing his staff,” and is “not considered to be a capable manager, a team builder, nor an influential leader.” Id. For this reason, the agency concluded that the proposed individual did not meet the following requirement defined by MSI’s for the role of objective 1 team lead: “Experience building successful partnerships and buy-in with government officials and other stakeholders.” Id.

The award decision summarized the concerns as follows:

There were serious concerns over the individual proposed for the Objective 1 Team Lead as he lacked relevant experience to handle issues involving the inclusion of citizens, citizen-centric management of funds, or decentralization reforms as they apply to service delivery – the major focus of Objective 1. Additionally, reference checks raised serious concerns over his managerial and interpersonal skills. All of these red flags raised serious concerns over the ability of Tetra Tech-MSI to properly implement Objective 1 with the proposed individual at the reins.

AR, Tab 31, SSDD, at 11.

MSI first argues that USAID’s evaluation with regard to the second and third concerns was not consistent with the RFP requirements and relied on unstated evaluation criteria. In this regard, MSI notes that the RFP directed offerors to prepare a performance work statement that explained how the offeror would meet the objectives in the SOO, and required offerors to propose key personnel positions and individuals to fill those positions. See RFP at L.7, M.3.b.3. The protester contends that its proposed objective 1 team lead met the minimum education and experience requirements set forth in RFP section F.7, and met all of the requirements that the protester established for the position in its proposal. The protester further contends the agency’s evaluation addressed concerns that were either not required by the RFP or were not encompassed within the protester’s description of the requirements for the objective 1 team lead.

We conclude that the agency’s concerns regarding enhancing service delivery through engaging citizens and other stakeholders was within the scope of the protester’s description of the role for the objective 1 team lead. See AR, Tab 30, Final TEC Report, at 48. In this regard, as noted in the agency’s evaluation, MSI’s proposal stated that the role of the objective 1 team lead included “[m]aintain[ing] strong working relationship[s] with all ministerial, provincial and other stakeholders.” AR, Tab 29, MSI Final Revised

Proposal, at 35. Moreover, MSI's proposal described objective 1 as involving "[q]uick win projects, systemic changes and a focus on vulnerable groups offer a path to a better quality of life." Id. at 13. As part of the approach to identifying such quick win projects, the protester's proposal stated that it would work with "Iraqi CSO networks and local service directorates/departments . . . to identify quick win projects and longer-term improvements for priority sectors." Id. at 13.

Additionally, USAID's discussions with MSI regarding its initial candidate for the objective 1 team lead position specifically raised the following concerns regarding citizen engagement:

17. **\*\*Objective 1 Team Lead . . .**

- a. The proposed Objective 1 Team Leader is a long time engineer involved with construction projects which is not relevant experience for IGPA interventions.
- b. Objective 1 is not simply about a hard improvement of services; it is about systems shifts, behavior shifts, attitude shifts, and reforms related to decentralization as well as the inclusion of citizens. The proposed Objective 1 Team Leader does not display relevant experience to handle issues involving the inclusion of citizens, citizen-centric management of funds, or decentralization reforms as they apply to service delivery.

AR, Tab 20, MSI Competitive Range Notice, at 5 (emphasis added).

Although directed to a different proposed individual, these concerns clearly advised MSI that the agency interpreted the RFP requirements and the protester's proposal as requiring experience with citizen engagement and decentralization. On this record, we conclude that USAID reasonably evaluated whether MSI's proposed objective 1 team lead demonstrated experience with enhancing service delivery through engaging citizens and other stakeholders. AR, Tab 30, Final TEC Report, at 48.

Next, MSI disputes the accuracy of USAID's three assessments regarding the experience and qualifications of its proposed objective 1 team lead, which found that the individual's experience regarding decentralization was "inflated," and that the individual lacked experience with citizen engagement. The protester primarily relies on an USAID report regarding the performance of USAID's Taqadum project, which was intended to "strengthen the capacity of local governments to more effectively respond to citizen needs, thereby strengthening the relationships and accountability between provincial councils and their constituents." AR, Tab 35B, Taqadum Report, Executive Summary, at 1. The contract was performed by Chemonics International, for whom MSI's proposed objective 1 team lead was a regional director. Protester's Comments (May 8, 2017) at 10; see also AR, Tab 29, MSI Final Revised Proposal, at 34.

MSI contends that the report shows that the project involved the kinds of citizen engagement that the agency found missing in its proposed objective 1 team lead's experience, and that the agency knew or should have known about his relevant work on the Taqadum project as a result of the report. Id. at 10-11. The Taqadum report cited by the protester, however, does not specifically mention its proposed objective 1 team lead or otherwise describe his work on the project. For this reason, we find no basis to conclude that the agency unreasonably ignored relevant available information regarding the individual's experience.

Finally, MSI argues that USAID's evaluation unreasonably relied on "reference checks" to verify the qualifications of the protester's proposed key personnel. Specifically, the agency contacted individuals who were named or quoted in MSI's proposal as well as other individuals that had knowledge about MSI's proposed key personnel, including MSI's proposed objective 1 team lead. As quoted above, the agency's evaluation relied upon information from these reference checks to verify the key personnel's experience. AR, Tab 30, Final TEC Report, at 48. The protester contends that the record does not provide adequate detail to assess the accuracy of the references or to rebut any possibility of bias because the contemporaneous evaluation did not name the references, and because the agency did not retain the notes of the interviews with the references.<sup>3</sup>

USAID acknowledges that the notes summarizing the reference check interviews, which were prepared by the evaluators and used to prepare the revised TEC report, were "destroyed prior to the filing of the protest." Email from USAID to GAO (May 2, 2017). In its response to the protest, the agency identified the three individuals who provided references for MSI's proposed objective 1 team lead, two of whom were agency personnel, and one of whom is an employee of Chemonics who currently works in Iraq. AR, Tab 3, Statement of TEC Chair, at 52; Tab 38, Supp. Statement of TEC Chair, at 15.

Where an agency fails to document an evaluation or retain evaluation materials, it bears the risk that there may not be an adequate supporting rationale in the record for us to conclude that the agency had a reasonable basis for its source selection decision. Navistar Def., LLC; BAE Sys., Tactical Vehicle Sys. LP, B-401865 et al., Dec. 14, 2009, 2009 CPD ¶ 258 at 13. The destruction of individual evaluator documents does not render an agency's evaluation unreasonable per se, however; rather, we will consider the record adequate if the consensus documents and source selection decision sufficiently document the agency's rationale for the evaluations. Joint Mgmt. & Tech.

---

<sup>3</sup> MSI also argues that the RFP did not advise offerors that AID would conduct reference checks to obtain information about proposed key personnel. The RFP, however, advised offerors that the agency could independently seek information concerning proposals: "When evaluating the competing offerors, the Government will consider the written qualifications and capability information provided by the offerors, and any other information obtained by the Government through its own research." RFP § M.2.c.

Servs., B-294229; B-294229.2, Sept. 22, 2004, 2004 CPD ¶ 208 at 3-4; Global Eng'g & Constr., LLC, B-290288.3, B-290288.4, Apr. 3, 2003, 2003 CPD ¶ 180 at 3 n.3.

Here, although the agency did not retain the underlying notes from the reference check interviews, we think the final TEC evaluation report clearly sets forth the information relied upon by the agency in evaluating the protester's proposed objective 1 team lead. See AR, Tab 30, Final TEC Report, at 48. In this regard, summaries of the reference interviews in the final TEC report provide an adequate record of the basis for the agency's evaluation judgments. Additionally, the agency's response to the protest identified the individuals who provided references, and the protester does not provide a basis to question the agency's representations concerning this information. On this record, we conclude that the agency's evaluation of MSI's proposed objective 1 team lead was reasonable and adequately documented.

#### Evaluation of MSI's Objective 2 Team Lead

MSI also argues that USAID unreasonably assigned a deficiency for its proposed objective 2 team lead. Because we conclude that the agency reasonably assigned a deficiency for the objective 1 team lead, we conclude that we need not address the protester's argument regarding the objective 2 team lead because the protester cannot demonstrate any possible prejudice arising from the evaluation.

Competitive prejudice is an essential element of a viable protest, and we will sustain a protest only where the protester demonstrates that, but for the agency's improper actions, it would have had a substantial chance of receiving the award. DRS ICAS, LLC, B-401852.4, B-401852.5, Sept. 8, 2010, 2010 CPD ¶ 261 at 21. Here, USAID argues that any deficiency in an offeror's proposal rendered it ineligible for award. COS at 2. For this reason, the agency argues that the protester could not have been prejudiced by any alleged error in the evaluation of its key personnel if at least 1 deficiency was properly assessed.

The record shows that the agency assigned deficiencies to two of MSI's proposed key personnel, the objective 1 team lead and objective 2 team lead, and stated that the deficiencies for the proposed key personnel "raised the risk of unsuccessful performance to an unacceptable level." AR, Tab 31, SSDD, at 11. Based on these deficiencies, the agency assigned MSI's proposal an unsatisfactory rating for the key personnel subfactor, but an overall rating of satisfactory for the activity administration factor, and a satisfactory rating for the non-cost factors, overall. AR, Tab 30, Final TEC Report, at 5; Tab 31, SSDD, at 5. The agency's best-value tradeoff decision compared the proposals of MSI and DAI, the only two offerors in the competitive range. AR, Tab 31, SSDD, at 5. The tradeoff decision did not specifically state that MSI's proposal was unacceptable, overall.

Although the term deficiency was not defined in the solicitation, the source selection plan and evaluation documents relied on the following definition:

A material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level. The CO may not award a contract to any Offeror who fails to correct deficiencies that are deemed essential.

AR, Tab 30, Final TEC Report, at 2; see also Tab 6, Source Selection Plan, at 20.

The evaluation rating of unsatisfactory was also not defined in the solicitation. Instead, the agency's source selection plan provided the following definition for an unsatisfactory rating:

An Unsatisfactory proposal has the following characteristics:

- Indicates a lack of understanding of the program goals and the methods, resources, schedules, and other aspects essential to the performance of the program.
- Incomplete, vague, incompatible, incomprehensible, or so incorrect as to be unacceptable.
- Fails to meet a minimum requirement or contains a deficiency which is/are uncorrectable without a major revision of the proposal.
- There are few, if any, strengths to benefit the program.
- Risk of unsuccessful performance is high and therefore unacceptable.
- Weaknesses and or deficiencies significantly outweigh any strengths that exist.

AR, Tab 6, Source Selection Plan, at 22-23; see also Tab 31, SSDD, at 3.

In response to the protest, the contracting officer stated that he "considered MSI's proposal to be ineligible for award due to the existence of deficiencies." Contracting Officer's 1st Response to GAO Questions (May 18, 2017) at 1. The contracting officer acknowledges that the award decision did not state that MSI was ineligible for award, but explains that "[a]s I now review the [award decision], I believe it would be clearer if it had explicitly stated MSI was ineligible due to their deficiencies." Id. The contracting officer states that he understood the definition of a deficiency under Federal Acquisition

Regulation (FAR) § 15.001<sup>4</sup>, which was referenced in the TEC evaluation report, to mean that “if an offeror had one or more deficiencies the risk of performance was so high as to make it an unacceptable risk and thus ineligible for award.” Id.; see AR, Tab 30, Final TEC Report, at 2. The contracting officer further stated that he believed that he was required to consider in the best-value tradeoff decision all proposals that were included in the competitive range, regardless of whether they contained deficiencies. Contracting Officer’s 1st Response to GAO Questions (May 18, 2017) at 1; see also Contracting Officer’s 2d Response to GAO Questions (May 31, 2017) at 1-2.

We think that the contracting officer’s express representation that any deficiency in an offeror’s proposal rendered it ineligible for award is consistent with the contemporaneous record.<sup>5</sup> In this regard, the contemporaneous record shows that the agency assigned deficiencies for MSI’s proposed objective 1 team lead and objective 2 team lead, and assigned an overall rating of unsatisfactory for the key personnel subfactor. AR, Tab 30, Final TEC Report, at 5, 45, 47-49; Tab 31, SSDD, at 11.

On this record, we conclude that the assessment of a deficiency for the objective 1 team lead supports the agency’s argument that MSI’s proposal was unacceptable and therefore ineligible for award without further revision. Therefore, MSI could not have been prejudiced regarding any possible defect in the evaluation of its proposed objective 2 team lead and we do not address this issue further. See Raytheon Co., Space & Airborne Sys., B-411631, Sept. 16, 2015, 2015 CPD ¶ 361 at 9.

#### Discussions with MSI

Next, MSI argues that USAID failed to provide meaningful discussions with regard to its proposed objective 2 team lead. For the reasons discussed below, we find no basis to sustain the protest.<sup>6</sup>

---

<sup>4</sup> FAR § 15.001 states: “‘Deficiency’ is a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.”

<sup>5</sup> While we generally give little or no weight to reevaluations and judgments prepared in the heat of the adversarial process, see Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15, post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details, will generally be considered in our review of reasonableness of evaluation decisions--provided those explanations are credible and consistent with the contemporaneous record. The S.M. Stoller Corp., B-400937 et al., Mar. 25, 2009, 2009 CPD ¶ 193 at 13.

<sup>6</sup> MSI’s arguments regarding the adequacy of discussions regarding its proposed objective 2 team lead were first raised in its supplemental protest, which was filed with its comments on the agency report. The protester argued that the agency failed to

(continued...)

When an agency engages in discussions with an offeror, the discussions must be “meaningful,” that is, sufficiently detailed so as to lead an offeror into the areas of its proposal requiring amplification or revision. FAR § 15.306(d)(3); Southeastern Kidney Council, B-412538, Mar. 17, 2016, 2016 CPD ¶ 90 at 4. Although discussions must address deficiencies and significant weaknesses identified in proposals, the precise content of discussions is largely a matter of the contracting officer’s judgment. Id. Agencies may not mislead an offeror--through the framing of a discussion question or a response to a question--into responding in a manner that does not address the agency’s concerns. Multimax, Inc. et al., B-298249.6 et al., Oct. 24, 2006, 2006 CPD ¶ 165 at 12.

USAID advised MSI during discussions of the following concern regarding its proposed objective 2 team lead: “Objective 2 Team Leader’s resume is difficult to understand. It is unclear which organizations he was working for on pg 2 of this resume in the Annex 2 Key Personnel CVs section. His work history is relevant but articulated poorly and challenging to process.” AR, Tab 20, MSI Competitive Range Notice, at 4. MSI’s revised proposal included a revised resume for the objective 2 team lead. The agency assessed a deficiency for the objective 2 team lead based on a number of concerns, including a lack of a relationship with relevant Iraqi government entities, lack of experience in public financial management, and a lack of oral and written English language skills. AR, Tab 30, Final TEC Report, at 49.

MSI contends that USAID’s notice during discussions provided only vague and general information regarding its proposed objective 2 team lead, and thus failed to meet the agency’s obligation to provide meaningful discussions. Even if we were to agree with the protester that the agency failed to provide meaningful discussions regarding the objective 2 team lead, the protester does not demonstrate that it could have been prejudiced by this error. In this regard, even if the agency had identified all of the issues that the protester contends should have been addressed during discussions, this action

---

(...continued)

advise it of concerns regarding the objective 2 team lead’s relationships with certain Iraqi government ministries and the individual’s English language skills. Protester’s Comments & Supp. Protest (May 8, 2017) at 19-24. Certain details regarding the agency’s understanding of the individual’s relationship with the Iraqi government ministries were first disclosed in the agency’s response to the protest, and were therefore timely raised in the supplemental protest. The concerns regarding the individual’s English language skills, however, were clearly disclosed in the protester’s post-award debriefing, and the MSI’s protest concerning them is therefore untimely because it was not raised within 10 days of when it knew or should have known of the basis for the argument. 4 C.F.R. § 21.2(a)(2); AR, Tab 32, MSI Notice of Award and Debriefing, at 5. In any event, for the reasons discussed below, we find no basis to conclude that the protester was prejudiced in any way by the agency’s conduct of discussions.

would not have affected the evaluation of the protester's proposed key personnel for objective 1.

As discussed above, the agency advised MSI during discussions of concerns regarding its proposed objective 1 team lead; the protester elected to propose a new individual for this position in its revised proposal. Because MSI proposed a new individual for this position, the agency had no obligation to reopen discussions to address the newly-assessed deficiency. Smiths Detection, Inc., B-298838, B-298838.2, Dec. 22, 2006, 2007 CPD ¶ 5 at 13 n.13 (agencies are not required to reopen discussions to address an issue that is introduced for the first time in an offeror's revised proposal following discussions). In light of the protester's decision to propose a new individual for the objective 1 team lead, the agency's reasonable assessment of a deficiency for this individual, and our conclusion above regarding the agency's position that a single deficiency rendered MSI's proposal unawardable, we conclude that any error regarding the adequacy of the agency's discussions regarding the objective 2 team lead could not have been prejudicial to the protester. See Raytheon Co., Space & Airborne Sys., supra. We therefore find no basis to sustain the protest.

#### Evaluation of DAI's AMEP

Finally, MSI argues that USAID failed to evaluate offerors' AMEPs as required by the RFP. The protester further contends that DAI's AMEP was unacceptable because the awardee changed aspects of its technical approach in its revised proposal, but did not update its AMEP to reflect these changes. For the reasons discussed below, we find no merit to this argument.

The RFP stated that the contractor will be required to provide an AMEP that describes how the project's performance will be monitored. RFP at F.5.5. The solicitation required offerors to submit a draft AMEP with their proposals, and stated that a final version must be submitted within 45 days after award. Id. The performance work statement factor did not specifically reference the AMEP, but stated that the agency would evaluate whether an offeror's proposed performance work statement "[d]emonstrate[s] an ability to revise proposed technical interventions and targets based on changes in Iraq's political economy and findings from activity monitoring and evaluation." Id. at M.3.a.3. The activity administration factor stated that the agency would evaluate "[t]he degree to which the proposed management plan is structured to accomplish the proposed technical approach while coordinating across objectives, to accomplish activities in the first annual and draft year two work plans and achieve the proposed results in the activity management and evaluation plan." Id. at M.3.b.1.

MSI argues that USAID did not evaluate DAI's draft AMEP. The record shows, however, that the agency's initial evaluation of the flexibility/revisions subfactor of the performance work statement factor identified a strength concerning the awardee's approach to process monitoring of impacts, which was located at page 4 of annex C to DAI's proposal. AR, Tab 17, Initial TEC Report, at 34. As the agency notes, annex C to DAI's proposal was its AMEP. AR, Tab 14A, DAI Initial Proposal, at C1-C10. This

strength was not revised or revisited in the agency's evaluation of DAI's revised proposal. See AR, Tab 30, Final TEC Report, at 15-16. On this record, we find no basis to conclude that the agency failed to evaluate the awardee's AMEP.

Next, MSI argues that USAID failed to evaluate changes to DAI's revised proposal for their effect on the awardee's AMEP. Specifically, the protester notes that although DAI proposed a new COP and DCOP in its revised proposal, it did not revise its AMEP to reflect these changes. The protester does not explain, however, how a change to the individuals proposed for the COP and DCOP positions affected the awardee's AMEP. In this regard, the AMEP does not prescribe roles for these positions based on specific qualifications of the initially-proposed key personnel; rather the AMEP describes the general roles to be performed by key personnel as outlined in DAI's performance work statement.<sup>7</sup> See AR, Tab 14A, DAI Initial Proposal, at C2-C5. On this record, we find no basis to conclude that the awardee's AMEP was unacceptable.<sup>8</sup>

The protest is denied.

Susan A. Poling  
General Counsel

---

<sup>7</sup> In any event, as discussed above, the RFP required offerors to submit a draft AMEP with their proposals, and provided that the contractor must submit a final version of that plan within 45 days of award. Thus, in the absence of any aspect of the AMEP that was dependent on the specific individuals named in the plan, we find no basis to conclude that the agency's evaluation of DAI's proposal was unreasonable.

<sup>8</sup> Similarly, MSI argues that DAI's AMEP lacked a "planned calendar of [monitoring and evaluation (M&E) activities]" detailed in the form of a Gantt chart, as required by the solicitation. RFP at F.5.5. A Gantt chart is a horizontal bar chart that provides a graphical illustration of a schedule and helps plan, coordinate, and track individual tasks and subtasks within a project. See [www.gantt.com](http://www.gantt.com) (last visited June 21, 2017). The intervenor notes that DAI's proposal contained a horizontal bar chart titled "Exhibit C-2: Calendar of M&E Activities," which details M&E activities and milestones (quarterly over 5 years). AR, Tab 14A, DAI Initial Proposal, at C2. On this record, we find no basis to conclude that DAI's chart failed to meet the solicitation requirement.