



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: Analytic Services, Inc.

File: B-405737

Date: December 28, 2011

Pamela J. Mazza, Esq., Isaias “Cy” Alba, IV, Esq., and Kathryn V. Flood, Esq., PilieroMazza PLLC, for the protester.
Richard L. Moorhouse, Esq., and William M. Jack, Esq., Greenberg Traurig LLP, for CENTRA Technology, Inc., the intervenor.
Karen J. Kinlin, Esq., Defense Threat Reduction Agency, for the agency.
Matthew T. Crosby, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency misevaluated protester’s proposal is denied where record reasonably supports evaluation and protester’s arguments reflect mere disagreement with agency judgments.
 2. Agency was not required to attempt to remedy proposal deficiencies through clarifications or discussions because deficiencies rendered proposal materially deficient and major revisions and additions would be required to make it acceptable.
 3. Protest challenging cost/technical tradeoff decision is denied where no tradeoff was required because protester’s proposal was technically unacceptable and could not form basis for award.
-

DECISION

Analytic Services, Inc., of Arlington, Virginia, protests the award of a contract by the Defense Threat Reduction Agency to CENTRA Technology, Inc., of Burlington, Massachusetts, under request for proposals (RFP) No. HDTRA1-11-R-0017 for advisory and assistance services in support of the agency’s mission to safeguard the United States and its allies from weapons of mass destruction. Analytic asserts that the agency’s evaluation of the firm’s proposal was unreasonable and that the agency improperly failed to perform a cost/technical tradeoff analysis.

We deny the protest.

BACKGROUND

The solicitation, which was issued on March 29, 2011 and amended three times, provided for the award of a single indefinite-delivery, indefinite-quantity (ID/IQ) contract. RFP at 1, § M.1.1.¹ Additionally, three cost-plus-fixed-fee task orders were to be awarded at the time of or immediately following the award of the ID/IQ contract. Id. § M.1.1. Each task order was to include a base period of 6 months, four 1-year option periods, and a final 6-month option period. Id. § L.5.6.1. The solicitation incorporated a statement of objectives (SOO) as well as separate statements of work (SOW) for each of the three task orders.² The SOO stated that the objective of the procurement was to acquire the services of subject matter experts (SME) to support the agency's Strategy and Plans Enterprise in efforts to combat weapons of mass destruction. SOO § 2.0. The SOO explained that the Strategy and Plans Enterprise provides, among other things, strategic planning support to the agency and various regional combatant commands. Id. § 1.0.

The contract and task order awards were to be made to the offeror whose proposal represented the "best value" to the government based on consideration of the following evaluation factors and subfactors:

Factor 1--Mission Capability
Subfactor A--Overall Management Approach
Subfactor B--Task Order 1 Technical Approach and Staffing Plan
Subfactor C--Task Order 2 Technical Approach and Staffing Plan
Subfactor D--Task Order 3 Technical Approach and Staffing Plan
Factor 2--Relevant Present and Past Performance
Factor 3--Cost

Id. §§ M.1.1, M.2.2.1. The mission capability factor was stated to be more important than the relevant present and past performance factor; the relevant present and past performance factor was stated to be more important than the cost factor; and the mission capability and relevant present and past performance factors when combined were stated to be significantly more important than the cost factor. Id. § M.2.2.2. The solicitation advised that because award would be made on the basis of best value, award could be made to a higher-cost offer. See id. § M.1.1.

¹ Solicitation amendment No. 0003 incorporated complete and revised versions of solicitation sections L and M. All citations herein to sections L and M refer to those sections as they appear in solicitation amendment No. 0003.

² Solicitation amendment No. 0003 incorporated complete and revised versions of the SOO and each SOW. All citations herein to the SOO and SOWs refer to the SOO and SOWs as they appear in solicitation amendment No. 0003.

With respect to the task order 1, 2, and 3 technical approach and staffing plan subfactors, the solicitation stated that each “subfactor is met when the offeror provides a comprehensive technical approach and staffing plan to effectively manage and execute the requirements of the Task Order [1, 2, and 3] SOW[s].” RFP §§ M.2.4.2, M.2.4.3, M.2.4.4.

Offerors were to submit separate cost proposals for each of the three task orders. Id. § L.5.1. These three cost proposals would be the basis for the agency’s cost evaluation. Id. § M.2.6. Offerors were informed that their proposed costs would be evaluated for realism, reasonableness, and completeness. Id. Following this evaluation, the solicitation stated, the agency would determine a “most probable cost” for each offeror by adjusting proposed costs to realistic levels as necessary based on the cost realism analysis. Id. An offeror’s most probable cost would be the cost used in the agency’s best value determination. Id.

The solicitation announced that the agency intended to make award without discussions and that offerors should not anticipate an opportunity to submit revised proposals. Id. § M.1.2. The solicitation, however, also announced that the agency could determine to hold discussions and that throughout the evaluation process the agency would consider the “correction potential” of any significant proposal flaws or weaknesses. Id. §§ M.1.2, M.1.4.

The agency received four proposals in response to the solicitation, including one from Analytic and one from CENTRA. Agency Report (AR), Tab 13, Source Selection Decision Document (SSDD) ¶ 4. One of the offerors later withdrew its proposal. Id. ¶ 6. Separate mission capability, past performance, and cost evaluation teams evaluated the three remaining proposals. Id.; AR, Tab 11, Source Selection Authority (SSA) Brief, at 7, 10.

The cost evaluation team (CET) determined CENTRA’s proposed costs to be realistic, reasonable, and complete. AR, Tab 11, SSA Brief, at 156. The CET also determined that Analytic’s proposed costs were reasonable and complete. Id. at 141. The CET, however, found that Analytic’s proposed costs did not reflect a clear understanding of the requirements and, therefore, were not realistic. Id. at 141, 143. As a result, the CET was unable to establish a most probable cost for Analytic. Id. at 156.

The mission capability evaluation team (MCET) identified proposal strengths and weaknesses under the mission capability subfactors using a “star system” that was described in the solicitation.³ The MCET identified strengths and weaknesses for Analytic’s proposal as shown in the table below.

³ A 1-star strength represented “[m]erit above minimum”; a 2-star strength represented “[s]ignificant merit”; and a 3-star strength represented “[o]utstanding
(continued...) ”

Subfactor A--Overall Management Approach	Two 2-star strengths Five 1-star strengths	One 2-star weakness
Subfactor B--Task Order 1 Technical Approach and Staffing Plan	Two 3-star strengths Three 2-star strengths One 1-star strength	Two 3-star weaknesses One 2-star weakness
Subfactor C--Task Order 2 Technical Approach and Staffing Plan	One 1-star strength	One 3-star weakness One 1-star weakness
Subfactor D--Task Order 3 Technical Approach and Staffing Plan	One 1-star strength	No weaknesses

AR, Tab 11, SSA Brief, at 23-37. The MCET then assigned mission capability subfactor ratings using adjectival ratings that were defined in the solicitation.⁴ The table below reflects the ratings assigned to the Analytic and CENTRA proposals, as well as the firms' proposed costs and most probable costs.

(...continued)

merit." RFP § M.2.4. A 1-star weakness represented a "[m]inor flaw with small impact on contract performance"; a 2-star weakness represented a "[s]ignificant flaw with potentially substantial impact on contract performance"; and a 3-star weakness represented a "[m]ajor flaw that fails to meet specified requirements and has a potentially serious impact on contract performance." Id.

⁴ An "excellent" rating represented a proposal that "exceeds specified requirements in a way beneficial to the Government by providing strengths with significant merit"; an "acceptable" rating represented a proposal that "meets specified requirements necessary for acceptable contract performance and any identified weaknesses are not significant and are readily correctable"; a "marginal" rating represented a proposal that "does not clearly meet some specified requirements necessary for acceptable contract performance or . . . contains one or more significant weaknesses that are correctable without a major proposal revision"; an "unacceptable" rating represented a proposal that "fails to meet specified requirements or contains a combination of significant weaknesses such that the proposal is not correctable without a major proposal revision." RFP § M.2.4. The definition for the "unacceptable" rating also stated that "[t]he proposal is not awardable." Id.

	<u>Analytic</u>	<u>CENTRA</u>
Factor 1--Mission Capability		
Subfactor A--Overall Management Approach	Marginal	Exceptional
Subfactor B--Task Order 1 Technical Approach and Staffing Plan	Unacceptable	Exceptional
Subfactor C--Task Order 2 Technical Approach and Staffing Plan	Unacceptable	Acceptable
Subfactor D--Task Order 3 Technical Approach and Staffing Plan	Acceptable	Acceptable
Factor 2--Relevant Present and Past Performance	Satisfactory	Satisfactory
Factor 3--Proposed Cost	\$38,526,060	\$49,993,948
Factor 3--Most Probable Cost	Unable to Determine	\$49,993,948

AR, Tab 11, SSA Brief, at 162.

Based on the evaluation results, the source selection evaluation board (SSEB) determined Analytic's proposal to be unacceptable and not subject to award without major proposal revisions. AR, Tab 13, SSDD, ¶ 6. The SSEB similarly determined that the proposal of the third offeror was unacceptable and not subject to award without major revisions. Id.

The SSEB presented the evaluation results to the SSA. Id. ¶ 5. Based on this presentation, as well as a narrative summary of the evaluation, the SSA determined that because of "significant failures" in the proposals of Analytic and the third offeror, it was in the government's best interest to make award without discussions. Id. ¶ 7. The SSA further determined that CENTRA's proposal represented the best value to the government because the proposal met or exceeded all of the solicitation requirements; CENTRA's past performance provided confidence regarding contract performance; and CENTRA's proposed costs were found to be realistic, reasonable, and complete. Id.

Award was made to CENTRA on September 8. AR, Tab 16, CENTRA Contract, at 1. After receiving a written debriefing, Analytic filed this protest with our Office.

DISCUSSION

Analytic challenges virtually every weakness assigned to the firm's proposal, as well as certain aspects of the source selection process. Analytic also asserts that the agency improperly failed to perform a cost/technical tradeoff analysis. We have considered all of Analytic's arguments and conclude that none has merit. Analytic's most significant arguments are discussed below.

Proposal Evaluation Process

Analytic asserts that rather than assigning adjectival ratings to proposals based on a comparison of the proposals to the stated evaluation criteria, the agency instead improperly assigned adjectival ratings based on a comparison of proposals to each other. Comments at 3. Analytic's position is based on briefing slides provided by the SSEB to the SSA, which, in Analytic's words, show that the SSEB "assigned specific adjectival ratings to the proposals only after performing a comparison of all offerors' proposals to each other." Id. (referencing AR, Tab 11, SSA Brief, at 12-13).

The briefing in question states that the MCET assigned strengths and weaknesses to each proposal, reviewed the strengths and weaknesses for consistency, and then assigned mission capability subfactor ratings. AR, Tab 11, SSA Brief, at 12-13. Following this process, the briefing states, the evaluations and ratings were reviewed for consistency. Id. at 13. We do not view either of the referenced consistency reviews as indicating, as Analytic asserts, that proposal ratings improperly were assigned based on a comparison of proposals to each other rather than on a comparison of proposals to the evaluation criteria. This protest allegation is denied.⁵

Overall Management Approach Subfactor Evaluation

Analytic's proposal received a 2-star weakness under the overall management approach subfactor for failing to "clarify how they will provide regional expertise in Africa or South America, per SOO 4.1." AR, Tab 11, SSA Brief, at 27. Analytic argues that this weakness was unreasonable in several respects. As a threshold matter, Analytic argues that the solicitation did not impose regional-specific requirements

⁵ The agency's report included a declaration by the MCET responding to many of Analytic's protest allegations. With respect to this allegation, the declaration states that "at no time were evaluations made or derived through comparison(s) between offeror's [sic] proposals." MCET Declaration at 1. Analytic asserts that our Office should not accord the same weight to the declaration as to the contemporaneous record. Comments at 3 n.1 (citing Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91). Post-protest explanations that provide a more detailed rationale for contemporaneous conclusions may, as is the case here, simply fill in previously unrecorded details, and generally will be considered in our review of the rationality of the selection decision, so long as those explanations are credible and consistent with the contemporaneous record. Geo-Seis Helicopters, Inc., B-299175, B-299175.2, Mar. 5, 2007, 2007 CPD ¶ 135 at 3 n.2; Jason Assocs. Corp., B-278689 et al., Mar. 2, 1998, 98-1 CPD ¶ 67 at 6. While we accord greater weight to contemporaneous source selection materials, we will nonetheless consider the entire record, including statements and arguments made in response to a protest, in considering whether the agency's source selection decision here is supportable. Geo-Seis Helicopters, Inc., supra.

under the overall management approach subfactor.⁶ Protest at 8-9; Comments at 5-6. Analytic alternatively argues that even if the solicitation required offerors to demonstrate a capability to provide regional expertise under this subfactor, Analytic's proposal met this requirement in two ways. First, according to Analytic, the proposal "affirmed" the firm's ability to service all of the regional areas specified in the solicitation.⁷ Protest at 8; Comments at 4. Second, Analytic contends, the proposal's task order 2 staffing matrix referenced two individuals with skills and experience in Africa and South America.⁸ Protest at 8; Comments at 4-5 (referencing AR, Tab 9, Analytic Proposal, Vol. II, Mission Capability, Subfactor C, at 14).

The agency responds that the overall management approach evaluation criteria did encompass an offeror's ability to provide regional expertise for each combatant command. Memorandum of Law at 8. In this regard, the agency points out that the solicitation stated that the evaluation of an offeror's management plan would include consideration of whether the plan provided an effective approach to accomplish the SOO. Id. at 8-9 (referencing RFP § 2.4.1). The SOO, the agency explains, calls for the acquisition of SME services to support the Strategy and Plans Enterprise in nine specific areas, including regional engagement, and required the provision of regional engagement advice and assistance. MCET Declaration at 2-3 (referencing SOO §§ 2.0, 3.0, 4.6). The agency further explains that the SOO included a list of capabilities pertinent to the required services, one of which was regional studies in Africa and South America. Id. at 3 (referencing SOO §§ 5.0, 5.2.6).

With respect to the weakness assigned to Analytic's proposal, the agency contends that the firm's management plan did not include a "convincing rationale" as to how the firm would meet the requirement for expertise in Africa or South America. Id. The agency asserts that while the proposal indicated that certain personnel had "familiarity" with those regions, the proposal did not demonstrate that the personnel had a level of education or experience that would qualify them as SMEs for those regions. Id.

⁶ Analytic's argument is based in part on the agency's response to a question posed by an offeror before the solicitation's closing date. Protest at 8-9; Comments at 5 n.2 (referencing AR, Tab 8, RFP Questions and Answers, at 12-13).

⁷ To illustrate an example cited by Analytic, the proposal stated that the firm's management approach would "[DELETED]." AR, Tab 9, Analytic Proposal, Vol. II, Mission Capability, Subfactor A, at 6.

⁸ Neither of the individuals was proposed as key personnel, so their résumés were not included in the proposal. See AR, Tab 9, Analytic Proposal, Vol. II, Mission Capability, Subfactor C, at 14-15. Analytic concedes that none of its key personnel demonstrated expertise in Africa or South America. Comments at 5.

In reviewing a protest against the propriety of an evaluation, it is not our role to independently evaluate proposals and substitute our judgment for that of the contracting activity. Shumaker Trucking & Excavating Contractors, Inc., B-290732, Sept. 25, 2002, 2002 CPD ¶ 169 at 3. Rather, we will review an evaluation to ensure that it was reasonable and consistent with the evaluation criteria in the solicitation and applicable procurement statutes and regulations; a protester's mere disagreement with the evaluation does not show that it lacked a reasonable basis. VT Griffin Servs., Inc., B-299869.2, Nov. 10, 2008, 2008 CPD ¶ 219 at 4.

We have reviewed the solicitation's evaluation criteria, the SOO, and the agency's responses to offerors' pre-closing solicitation questions, and we agree with the agency that the overall management approach subfactor evaluation criteria encompassed an offeror's ability to provide specific regional expertise, including expertise in Africa and South America.⁹ Further, based on the record, we conclude that the agency did not unreasonably determine that Analytic's proposal failed to adequately demonstrate the ability to provide regional expertise in Africa and South America. With respect to the first individual cited by Analytic, the proposal does not provide details to show that the individual has expertise in South America.¹⁰ See AR, Tab 9, Analytic Proposal, Vol. II, Mission Capability, Subfactor C, at 14. The second individual was listed as "[DELETED]." *Id.* at 15. Additionally, the description of his experience is limited and general in nature.¹¹ *Id.* In sum, we see no basis to overturn the agency's judgment that the information regarding these two individuals, together with generic references in Analytic's proposal to providing access to regional expertise, was insufficient to show that Analytic could provide subject matter expertise in Africa and South America.

Analytic also challenges the "marginal" rating assigned to the firm's proposal under the overall management approach subfactor. Analytic argues that this rating was unreasonable because the firm's proposal received seven strengths under this subfactor, but only one weakness. Protest at 10; Comments at 6-7.

⁹ We note that in addition to the relevant solicitation provisions cited in the agency's response to the protest, the SOO also included a provision requiring SME "regional expertise applicable to each geographic combatant command." SOO § 4.1.

¹⁰ The only information provided about the individual that relates to South America was that [DELETED] the United States Southern Command (SOUTHCOM). AR, Tab 9, Analytic Proposal, Vol. II, Mission Capability, Subfactor C, at 14. SOUTHCOM provides contingency planning, operations, and security cooperation for Central America, South America, and the Caribbean. SOUTHCOM, About Us, <http://www.southcom.mil/aboutus/Pages/About-Us.aspx> (last visited Dec. 22, 2011).

¹¹ The proposal states that the individual "[DELETED]". AR, Tab 9, Analytic Proposal, Vol. II, Mission Capability, Subfactor C, at 15.

As noted above, the solicitation defined a 2-star weakness as a “[s]ignificant flaw with [a] potentially substantial impact on contract performance.” RFP § M.2.4. The solicitation also defined a rating of marginal to mean that a proposal “contains one or more significant weaknesses,” whereas a rating of “acceptable” was defined to mean that “any identified weaknesses are not significant.” Id. For the reasons discussed above, we see no basis to question the agency’s judgment that Analytic’s proposal warranted a 2-star weakness under the overall management approach factor. Because the solicitation provided that a 2-star weakness constituted a significant flaw, and because the solicitation defined a marginal rating as signifying one or more significant weaknesses, the marginal rating assigned to Analytic’s proposal under this subfactor was reasonable and consistent with the solicitation. This basis of protest is denied.

Task Order 1 Technical Approach and Staffing Plan Subfactor Evaluation

Analytic challenges both of the 3-star weaknesses assigned to its proposal under the task order 1 technical approach and staffing plan subfactor. The agency documented the first 3-star weakness as follows:

Only 2 of 5 proposed staff have demonstrated expertise with JCIDS [joint capability integration and development system], and none of the 5 have demonstrated a depth and breadth of PPBE [planning, programming, budget, and execution] expertise. Overall, the staff does not have the expertise and capacity to achieve the required level of performance.

AR, Tab 11, SSA Brief, at 32. Analytic argues that this weakness was unreasonable because, in Analytic’s view, it is inconsistent with two strengths assigned the firm’s proposal under the same subfactor. Protest at 11-13; Comments at 7-9. The first of these strengths was documented as Analytic’s “outstanding personnel that possess significant experience across the CWMD [combating weapons of mass destruction] community and mission areas.” AR, Tab 11, SSA Brief, at 29. The second strength was documented as follows:

To support CAC [concepts, assessments, and capabilities] in the PPBE process, [Analytic] proposed to participate in Program Reviews to ensure coordination between capabilities, acquisition, budget requirements and functional needs. They also demonstrated a sound capability to conduct research, analytic and technical skills for JCIDS.

Id. at 30.

The agency responds by pointing out that the task order 1 SOW sought advisory and assistance support in five separate functional areas, including CAC support and threat reduction advisory committee (TRAC) support. MCET Declaration at 4 (referencing task order 1 SOW §§ A.1, A.2, A.3, B.1, B.2). Regarding the first

strength, the agency explains that the referenced “outstanding personnel” were connected with TRAC support, whereas the challenged weakness pertains to Analytic’s proposed CAC support. Id. The agency also points out that the task order 1 subfactor evaluation criteria expressly encompassed both technical approach and staffing plan. Id. (referencing RFP § M.2.4.2). The second strength, the agency explains, pertains to Analytic’s CAC support technical approach, whereas the challenged weakness pertains to the firm’s CAC support staffing plan, which was deemed inadequate. Id. at 4, 6.

The solicitation and contemporaneous evaluation record reflect the distinction described by the agency between CAC and TRAC support, as well as the distinction between task order 1 technical approach and task order 1 staffing. See RFP § M.2.4.2; Task Order 1 SOW §§ A.2, B.1; AR, Tab 11, SSA Brief, at 29, 32. Further, Analytic has not shown—and it is not clear from the record—that the agency unreasonably determined Analytic’s CAC support staff plan to be inadequate with respect to JCIDS or PPBE experience. See AR, Tab 9, Analytic Proposal, Vol. II, Mission Capability, Subfactor B, at 24; Comments at 8. Analytic’s challenge amounts to mere disagreement with the agency, and, therefore, this basis of protest is denied.¹²

As stated above, Analytic also challenges the second 3-star weakness assigned to its proposal under the task order 1 technical approach and staffing plan subfactor. The agency documented this weakness as follows:

[Analytic] proposed to ensure adequate resourcing of PDI [plans and doctrine integration] mission requirements by [DELETED]. In addition, [Analytic] did not clarify how they will meet the requirements from the offices the bodies are taken from. The Offeror proposed a prioritization (PDI over other SP [Strategy and Plans] Mission areas) that is not valid.

AR, Tab 11, SSA Brief, at 32. The agency assigned this weakness in response to Analytic’s proposed use of [DELETED] full time equivalent (FTE) personnel for PDI support, rather than the agency’s estimate of 4.0 FTE personnel. AR, Tab 20, MCET Worksheet, at 4. Analytic’s proposal acknowledged that its proposed staffing level

¹² In its comments on the agency report, Analytic for the first time alleged that because PPBE was only one of nine CAC support areas specified in the task order 1 SOW, the failure to demonstrate a depth and breadth of PPBE experience should not have “translate[d] as a significant weakness.” Comments at 8. Analytic, however, knew of this issue on September 8 when it received its written debriefing. AR, Tab 15, Analytic Debriefing, at 22. As a result, this allegation was untimely raised in a piecemeal fashion and will not be considered. See 4 C.F.R. § 21.2(a)(1) (2011); J&J Maint., Inc.—Recon., B-240799.3, B-240802.3, Apr. 23, 1991, 91-1 CPD ¶ 396 at 3-4.

was less than the agency's estimate, and indicated that Analytic would compensate for the lower staffing by "[DELETED]." AR, Tab 9, Analytic Proposal, Vol. II, Mission Capability, Subfactor B, at 22. The proposal also stated that the firm's approach took into consideration the "[DELETED]." *Id.* Analytic argues that the weakness was unreasonable because the firm's proposal referenced [DELETED]. Protest at 14; Comments at 10.

It is true that Analytic's proposal referenced [DELETED]. *E.g.*, AR, Tab 9, Analytic Proposal, Vol. II, Mission Capability, Subfactor B, at 4. However, in the specific context of the task order 1 staffing plan, the proposal is unclear at best as to whether the firm intended to compensate for the lower-than-estimated staffing level through the use of staff assigned to other Strategy and Plans Enterprise projects, or whether surge personnel staff would be used. It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency. *International Med. Corps*, B-403688, Dec. 6, 2010, 2010 CPD ¶ 292 at 7. We do not view as unreasonable the agency's concern that Analytic apparently planned to compensate for the lower-than-estimated PDI staffing level through the use of staff assigned to other Strategy and Plans Enterprise projects. Analytic's arguments to the contrary do not provide a basis to sustain the protest.

As with the overall management approach subfactor, Analytic argues that the "unacceptable" rating assigned to the firm's proposal under the task order 1 technical approach and staffing plan subfactor was unreasonable because the proposal received numerous strengths under this subfactor. Protest at 15; Comments at 11. The solicitation defined a 3-star weakness as a "[m]ajor flaw that fails to meet specified requirements" and defined an "unacceptable" rating to mean that a proposal "contains a combination of significant weaknesses such that the proposal is not correctable without a major proposal revision." RFP § M.2.4. For the reasons discussed above, we see no basis to question the agency's judgment that Analytic's proposal warranted either of the 3-star weaknesses that were assigned under the task order 1 technical approach and staffing plan subfactor. Because the solicitation defined a 3-star weakness as a major flaw, and because the solicitation defined an unacceptable rating as a proposal with a combination of significant weaknesses, the unacceptable rating assigned to Analytic's proposal under the task order 1 subfactor was reasonable and consistent with the solicitation. This basis of protest is denied.¹³

¹³ Analytic also challenges weaknesses assigned to the firm's proposal under the task order 2 technical approach and staffing plan subfactor. Protest at 15-16; Comments at 11-13. We have reviewed all of Analytic's arguments and find that none has merit. For example, Analytic's proposal received a 1-star weakness for an inadequate response to deployment requirements for four designated deployable liaison officers (LNO). AR, Tab 11, SSA Brief, at 35. Analytic asserts that this weakness was

(continued...)

Clarifications and Discussions

Analytic asserts that the agency improperly failed to request that Analytic clarify aspects of the firm's proposal relating to the evaluated proposal weaknesses. Protest at 7; Comments at 2-3. Analytic points out that the solicitation stated that the agency would consider the "correction potential" of proposals. Protest at 7 n.1 (referencing RFP § M.1.4). According to Analytic, each proposal weakness was "readily correctable or explainable." Protest at 7; see also Comments at 3. The agency responds that given the magnitude of Analytic's proposal weaknesses, material proposal revisions would be required to render the proposal acceptable, and, therefore, the weaknesses were not properly the subject of clarifications. Contracting Officer's Statement at 10; Memorandum of Law at 5.

Clarifications are "limited exchanges" that agencies may use to allow offerors to clarify certain aspects of their proposals or to resolve minor or clerical mistakes. Federal Acquisition Regulation § 15.306(a)(2). Agencies are not required to request clarifications in the context of an award, such as the one here, made without discussions. Id. § 15.306(a)(1); Government Telecomm., Inc., B-299542.2, June 21, 2007, 2007 CPD ¶ 136 at 8; AIA-Todini-Lotos, B-294337, Oct. 15, 2004, 2004 CPD ¶ 211 at 12. Analytic's proposal was deemed unacceptable. Providing Analytic with an opportunity to correct the weaknesses would constitute discussions, not clarifications, because it would involve the submission of information necessary to make the proposal acceptable. Gemmo-CCC, B-297447.2, July 13, 2006, 2006 CPD ¶ 182 at 5; Lockheed Martin Simulation, Training & Support, B-292836.8 et al., Nov. 24, 2004, 2005 CPD ¶ 27 at 8.

Analytic also argues that the agency's decision not to engage offerors in discussions was unreasonable. Comments at 2-3. There generally is no obligation that a contracting agency conduct discussions where, as here, the solicitation specifically instructed offerors of the agency's intent to award a contract on the basis of initial proposals without conducting discussions. See Colmek Sys. Eng'g, B-291931.2, July 9, 2003, 2003 CPD ¶ 123 at 7. Notwithstanding, Analytic's position to the contrary, an agency is not precluded from awarding on the basis of initial proposals merely because an unacceptable lower-priced offer might be made acceptable through discussions. See Integration Techs. Group, Inc., B-274288.5, June 13, 1997,

(...continued)

unreasonable because its proposal stated that [DELETED]. Protest at 16; Comments at 12-13. The task order 2 SOW included a set of specific requirements for deployable LNOs. Task Order 2 SOW § A.1.2. Analytic has not shown—and it is not clear from the record—that its proposal responded to any of these specific requirements beyond providing generic statements of compliance. Analytic's arguments amount to mere disagreement with the agency's judgment and provide no basis on which to sustain the protest.

97-1 CPD ¶ 214 at 6. Further, a contracting officer's discretion in deciding not to hold discussions is quite broad, id., and an agency's decision not to initiate discussions is a matter we generally will not review, Kiewit La. Co., B-403736, Oct. 14, 2010, 2010 CPD ¶ 243 at 3. Here, Analytic has provided no basis, nor have we found one in the record, to call into question the agency's decision not to engage in discussions.

Best Value Determination

Finally, Analytic challenges the source selection decision, arguing that the agency improperly failed to perform a best value tradeoff that considered the firm's lower proposed cost. Protest at 17-19; Comments at 13-14. It is well established that a technically unacceptable proposal cannot be considered for award. XtremeConcepts Sys., B-402438, Apr. 23, 2010, 2010 CPD ¶ 99 at 7; EMSA Ltd. P'ship, B-254900.4, July 26, 1994, 94-2 CPD ¶ 43 at 5. Because we see no basis to question the agency's determination that Analytic's proposal was unacceptable, the agency was not required to consider the firm's lower proposed cost in its best value determination.¹⁴

The protest is denied.

Lynn H. Gibson
General Counsel

¹⁴ As discussed above, the agency was unable to determine a most probable cost for Analytic.