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Decision

Matter of: FreeAlliance.com, LLC; Radus Software LLC/Radus CTA; Mobomo, LLC

File: B-419201.3; B-419201.4; B-419201.5; B-419201.6; B-419201.7

Date: January 19, 2021

Daniel J. Strouse, Esq., David Cohen, Esq., and John J. O'Brien, Esq., Cordatis LLP, for FreeAlliance.com, LLC; William Weisberg, Esq., Law Offices of William Weisberg, for Radus Software, LLC/Radus CTA; and Jeremy S. Scholtes, Esq., C. Peter Dungan, Esq., and Roger V. Abbott, Esq., Miles & Stockbridge P.C., for Mobomo, LLC, the protesters.

Mary Pat Buckenmeyer, Esq., Roy Morris, Esq., and Ithi Joshi, Esq., Dunlap Bennett & Ludwig PLLC, for TCG, Inc., the intervenor.

Shirin E. Ahlhauser, Esq., and Nathan C. Guerrero, Esq., General Services Administration, for the agency.

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

DIGEST

1. Protests challenging the agency's evaluation of technical quotations are sustained where the record shows that the agency applied unstated evaluation criteria in the evaluation under the key personnel experience and past performance evaluation factors, and where the agency did not adequately document the basis for assigning adjectival ratings for the technical evaluation.
2. Protest challenging the agency's decision to award to a vendor whose quotation failed to include a letter of commitment for its proposed key personnel is denied where the solicitation did not state that such an omission would render a quotation unacceptable.
3. Protest challenging the agency's evaluation of a protester's price quotation is sustained where the agency concedes making an error which resulted in that protester improperly being eliminated from award consideration.
4. Protest challenging the agency's best-value decision is sustained where the solicitation called for a best-value tradeoff and the award decision did not explain why higher-priced, higher technically rated quotations were worth a price premium as compared to lower-priced, lower technically rated quotations.

DECISION

FreeAlliance.com, LLC (FreeAlliance), a small business of McLean, Virginia; Radus Software, LLC/Radus CTA, as a member of Radus Contractor Teaming Arrangement (Radus), a small business of Great Falls, Virginia; and Mobomo, LLC, a small business of Vienna, Virginia; protest the establishment of multiple-award blanket purchase agreements (BPAs) with nine vendors by the General Services Administration (GSA) under request for quotations (RFQ) No. 47HAA020Q0019, for a variety of information technology (IT) services. FreeAlliance, Radus, and Mobomo challenge the agency's technical evaluation; FreeAlliance and Radus argue that the agency's evaluation of price quotations was flawed; and FreeAlliance challenges the award decision.

We sustain the FreeAlliance's and Mobomo's protests, and deny Radus's protest.

BACKGROUND

GSA issued the RFQ as a small business set-aside on January 23, 2020, under the Federal Supply Schedules (FSS) provisions of Federal Acquisition Regulation (FAR) subpart 8.4, seeking quotations for design, development, configuration, release management, system maintenance, and system security support for a variety of web services, web products and applications, and their related systems. Conformed Copy of Solicitation (RFQ) at 1-3.¹ The RFQ contemplated the establishment of a multiple-award BPA with a base period of 12 months and four 12-month option periods, with a maximum ordering value of \$250 million. *Id.* at 2-3, 8. The competition was limited to firms that hold an active GSA Schedule 70 contract. *Id.* at 8.

The RFQ described the agency's requirement as five pools of work, which included a list of potential tasks to be achieved, as needed, throughout the BPA's period of performance:

POOL #5.1 Government Program Management Support.

POOL #5.2 Concept, Design and Strategy for IT applications.

POOL #5.3 Development, Implementation and Release Management – for IT applications.

POOL #5.4 Systems Administration – systems support to include and not be limited to architect and engineer, configure, manage,

¹ The conformed RFQ is found at different locations in the record for each protest, however, all citations to the "RFQ" reference the same conformed copy of the RFQ. See FreeAlliance Electronic Protest Docketing System (Dkt.) No. 24; Radus AR, Tab 2, Blanket Purchase Agreement V3 Solicitation; and Mobomo Agency Report (AR), Tab 2, Blanket Purchase Agreement V3 Solicitation.

deploy, scale, maintain and operate applications, websites, cloud hosting and platforms

POOL #5.5 Information Systems Security – implement IT security measures to ensure systems operate at manageable and acceptable levels of risk.

Id. at 10.

The RFQ advised that quotations would be evaluated on the basis of price and the following non-price factors: (1) technical/management approach; (2) key personnel experience; and (3) past performance. *Id.* at 40-41. The technical/management approach factor was “significantly more important” than the other technical factors, and the key personnel experience factor was “slightly more important” than the past performance factor. *Id.* at 40. For purposes of award, the technical factors, when combined, were “significantly more important” than price. *Id.*

GSA’s evaluation utilized a source selection team that was comprised of the source selection authority (SSA), the contracting officer, the technical evaluation team (TET)², and agency legal counsel. Technical Evaluation Plan at 9.³ *Id.* The SSA, an individual other than the contracting officer, was given “full responsibility and authority to select the source for award and approve execution of the [BPA].” *Id.*

GSA received 43 quotations in response to the RFQ by the closing date of April 10. FreeAlliance Contracting Officer’s Statement (COS) at 1; see RFQ at 40. As discussed below, the agency assigned each quotation a price rating based on the number of labor rates proposed that were equal to or below the mean plus one standard deviation of all vendors’ proposed rates. Award Decision Memorandum at 15; FreeAlliance Supp. COS at 3.⁴ The agency evaluated the quotations of the nine awardees and the three protesters as follows:⁵

² This team is also called the technical evaluation board (TEB) in the record.

³ The technical evaluation plan is found at different locations in each record, however, citations to the “technical evaluation plan” all refer to the same document. See FreeAlliance Dkt. No. 34, BPA Technical Evaluation Plan; Radus Dkt. No. 24, BPA Technical Evaluation Plan; Mobomo Dkt. No. 30, BPA Technical Evaluation Plan.

⁴ The award decision memorandum is found at different locations in each record, however, citations to the “award decision memorandum” all refer to the same document. See FreeAlliance AR, Tab 10; Radus AR, Tab 23; Mobomo AR, Tab 19.

⁵ The TET assigned quotations one of the following adjectival ratings for the three evaluation factors, and for the overall technical rating: exceptional, very good, satisfactory, marginal, or unacceptable. Award Decision Memorandum at 10.

Vendor Name	Overall Technical Rating	Technical Ranking	Price Rating	Price Ranking
AWARDEES⁶				
VETS	Exceptional	1	100%	1 (tie)
Excelicon	Exceptional	2	92%	23
ComTech	Exceptional	3	76%	29
Fedsight – JPI	Exceptional	4	68%	32
eKuber	Exceptional	5	100%	1 (tie)
Valiant	Exceptional	6	100%	1 (tie)
OctoMetric	Exceptional	7	95%	19
Highlight Technologies, Inc.	Exceptional	8	67%	33
TCG, Inc.	Exceptional	9	58%	37
PROTESTERS				
FreeAlliance.com	Very Good	14	50%	38
Radus CTA	Satisfactory	35	65%	35
Mobomo, LLC	Very Good	19	88%	25

Award Decision Memorandum at 14-19, 21-23.

Nine vendors were selected for award of a BPA. *Id.* at 21-23. The agency selected for award all quotations that were assigned an overall technical rating of exceptional and a price rating of at least 54.59 percent. *Id.* at 14-17, 21-23.

FreeAlliance received a brief oral explanation of the selection decision from GSA on October 5, in accordance with section 8.405-2(d) of the FAR; Radus received a brief oral explanation on October 6; and Mobomo received a brief oral explanation on October 7. FreeAlliance COS at 2; Radus COS at 2; Mobomo COS at 2. FreeAlliance filed its protest with our Office on October 9, Radus filed its protest on October 13, and Mobomo filed its protest on October 19.

DISCUSSION

FreeAlliance, Radus, and Mobomo raise challenges to the agency's evaluation under the technical/management, key personnel, and past performance factors; FreeAlliance also challenges the agency's evaluation of TCG's quotation, asserting that the quotation

⁶ The nine awardees were: (1) Veterans Enterprise Technology Solutions, Inc. (VETS), of Clarksville, Virginia; (2) Blueprint Consulting Services, LLC, doing business as Excelicon, of Washington, District of Columbia; (3) Comtech LLC, of Reston, Virginia; (4) Fedsight-JPI Joint Venture, of Leesburg, Virginia; (5) eKuber Ventures Inc., of Great Falls, Virginia; (6) Valiant Solutions, LLC, of Henderson, North Carolina; (7) Octo Metric LLC of Atlanta, Georgia; (8) Highlight Technologies, Inc., of Nampa, Idaho; and (9) TCG Inc., of Washington, District of Columbia. Award Decision Memorandum at 21-23.

should have been found technically unacceptable. Next, FreeAlliance and Radus argue that the agency's evaluation of their respective price quotations was flawed. Finally, FreeAlliance challenges the agency's best-value tradeoff, arguing that GSA established an arbitrary technical ranking cutoff and that GSA did not consider lower-priced, lower technically rated quotations for award, as should be done in a tradeoff decision. For the reasons discussed below, we sustain FreeAlliance's protest concerning the agency's overall technical evaluation ratings, the agency's price evaluation, and the agency's best-value tradeoff, and we sustain Mobomo's protest concerning the agency's evaluation of its quotation under the past performance and key personnel experience factors. We deny all other protest arguments.⁷

Where, as here, an agency issues a solicitation to FSS vendors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. *Digital Sols., Inc.*, B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement law and regulation. *Id.*

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. See *DRS ICAS, LLC*, B-401852.4, B-401852.5, Sept. 8, 2010, 2010 CPD ¶ 261 at 21-22. Where the record establishes no reasonable possibility of prejudice, we will not sustain a protest even if a defect in the procurement is found. See *Procentrix, Inc.*, B-414629, B-414629.2, Aug. 4, 2017, 2017 CPD ¶ 255 at 11-12.

Challenge to the Assignment of Technical Evaluation Ratings

FreeAlliance argues that GSA unreasonably assigned its quotation an overall rating of very good, rather than the highest possible rating of exceptional. The protester primarily argues that the agency evaluated quotations in a disparate manner, and did not reasonably explain why identified strengths and weaknesses resulted in the assigned ratings. For the reasons explained below, we agree and sustain the protest.

Our Office has explained that point scores and adjectival ratings are only guides to assist source selection officials in evaluating quotations; they do not mandate automatic selection of a particular proposal or quotation. *Harmonia Holdings Grp., LLC*, B-417475.3, B-417475.4, Sept. 23, 2019, 2019 CPD ¶ 333 at 24; *KPMG Consulting LLP*, B-290716, B-290716.2, Sept. 23, 2002, 2002 CPD ¶ 196 at 13. Additionally,

⁷ The protesters also raise other collateral arguments. Although we do not address every argument, we have reviewed them all and find no basis to sustain the protest, aside from those grounds specifically identified here.

comparisons of the relative merit of offerors' proposals or quotations should not be based on a mechanical count of the number of strengths and weaknesses. *PricewaterhouseCoopers Pub. Sector, LLP*, B-415504, B-415504.2, Jan. 18, 2018, 2018 CPD ¶ 35 at 7. However, agencies may not generally engage in conduct that amounts to unfair or disparate treatment of competing vendors. *LogiCore Corp.*, B-416629 *et al.*, Nov. 6, 2018, 2018 CPD ¶ 383 at 7. Where a protester alleges unequal treatment in an evaluation, it must show that the differences in ratings did not stem from differences between the quotations. *Id.*; *Snap, Inc.*, B-418525, B-418525.2, June 5, 2020, 2020 CPD ¶ 189 at 6.

FreeAlliance's quotation was assessed an overall technical rating of very good, the second-highest rating after exceptional. Award Decision Memorandum at 14. Technical Evaluation Plan at 13. The table below summarizes the scoring of FreeAlliance's quotation under the technical evaluation factors:

	Technical/Management Approach	Key Personnel Experience	Past Performance
Rating	Very Good	Very Good	Exceptional
Total Strengths	14	4	4
Total Weaknesses	0	1	0
Total Deficiencies	0	0	0

Award Decision Memorandum at 11; Technical Evaluation Report at 31-34.⁸

FreeAlliance acknowledges that "simply counting the number of strengths is not, in and of itself, dispositive," but contends that GSA "relied heavily on this counting exercise" in its technical evaluation. FreeAlliance Supp. Comments at 15. In this regard, FreeAlliance argues that GSA's technical evaluation amounted to a mechanical counting of strengths and weaknesses; that is, quotations with the most strengths were awarded the highest technical rating without any analysis of qualitative technical abilities. *Id.* FreeAlliance notes that its quotation received more strengths under the non-price factors than the quotations of all but two of the nine awardees--each of which was assigned an overall rating of exceptional. *Id.* at 15-16. For this reason, the protester contends that, based on GSA's evaluation methodology as implemented, its quotation should have also received an overall rating of exceptional, and therefore received an award. *Id.*

⁸ The technical evaluation report is found at different locations in each record, however, citations to the "technical evaluation report" refer to the same document. See FreeAlliance AR, Tab 8, BPA TEB Report; Radus AR, Tab 21, BPA Technical Evaluation Board Report; Mobomo AR, Tab 17, BPA TEB Report Final.

GSA argues that it evaluated FreeAlliance's quotation reasonably and in accordance with the RFQ. FreeAlliance Supp. Memorandum of Law (MOL) at 1-3. The contracting officer explains that FreeAlliance's overall technical rating was based on multiple considerations, such as the vendor's ratings under each technical factor and the strengths and weaknesses assigned to the vendor's quotation. FreeAlliance Supp. COS at 2. GSA acknowledges that the evaluation considered the number of strengths assessed, but contends that it also evaluated the "advantage or depth" that each strength provided. FreeAlliance Supp. MOL at 2.

The technical evaluation report provides short narratives as to why the evaluators found strengths in aspects of these quotations. Technical Evaluation Report at 31-34. While the record shows that the qualitative aspects of FreeAlliance's quotation were considered and documented by the TET, the record does not explain how the agency weighed the assessed strengths and weaknesses, or the corresponding qualitative evaluation notes, to arrive at a vendor's ultimate rating. Our review of the record shows that the agency's overall technical ratings were not based on a mechanical counting of strengths; however, the record does not explain why the strengths and weaknesses for each quotation merited the assignment of a particular adjectival rating. In this regard, the TET report simply restated the definition for a given rating, rather than explaining which strengths or weaknesses were more important or offsetting. See *id.*

For example, the evaluation of FreeAlliance under the technical/management approach factor assigned a rating of very good, based on the following assessment: "Quote meets requirements and indicates a thorough approach and technical understanding of the requirements. Quote contains strengths which outweigh any weaknesses. No deficiencies were found. Risk of unsuccessful performance is low." *Id.* at 31. This assessment, however, was simply a verbatim restatement of the definition of a very good rating. Compare Technical Evaluation Report at 31 with Technical Evaluation Plan at 13 (setting out the same definition for a rating of very good). Apart from the recitation of the definition for the adjectival ratings, the record does not explain the agency's basis for assigning the ratings.

In further support of its argument, FreeAlliance contends that GSA's technical evaluation did not evaluate quotations on a common basis. For example, the protester notes that the three strengths assessed to TCG's quotation under the technical/management approach factor resulted in the assignment of a rating of exceptional. FreeAlliance Comments at 14-17. The protester's quotation, however, was assigned a rating of very good for this factor, despite the fact that three of the 13 strengths assigned to its quotation were nearly identical to the three strengths assigned to TCG's proposal. *Id.*; compare Technical Evaluation Report at 96-97 (evaluation of TCG), with *id.* at 31-32 (evaluation of FreeAlliance). Specifically, TCG's first noted strength aligns with FreeAlliance's first noted strength; TCG's second noted strength aligns with FreeAlliance's fifth and sixth noted strengths; and TCG's third and final strength aligns with FreeAlliance's thirteenth noted strength. See *id.* While the agency argues that the successful vendors like TCG were able to demonstrate deeper

strengths, the record does not explain how the agency made that assessment or why the strengths assigned to TCG's quotation differed from those assigned to FreeAlliance's quotation. Without such documentation in the record, we are unable to conclude that GSA's evaluation was administered on an even-handed basis.

To the extent FreeAlliance argues that GSA's evaluation was based solely on the number of strengths and weaknesses assigned, we find no basis to sustain the protest. We nonetheless agree with the protester that the record does not provide a basis for our Office to meaningfully review whether the agency reasonably concluded that the strengths and weaknesses identified for FreeAlliance's quotation merited the adjectival rating of very good, while TCG's far fewer strengths and weaknesses merited the adjectival rating of exceptional. While our Office will not reevaluate quotations, we will examine the record to determine whether the agency's evaluation conclusions were reasonable. *Digital Sols., Inc., supra*. Here, based on the record before us, we are unable to conclude that the agency's evaluation was reasonable. We therefore sustain the protest on this basis.⁹

Challenges to the Past Performance Evaluation

Mobomo and Radus challenge GSA's evaluation of their respective quotations under the past performance factor. For the reasons explained below, we sustain Mobomo's protest and deny Radus's protest.

The RFQ required vendors to submit three past performance references demonstrating experience with work similar in scope to the work described in the solicitation. RFQ at 43. The RFQ advised that past performance would be evaluated for relevance and quality of performance. *Id.* The RFQ required quotations to include "descriptions of projects similar in scope to the requirements identified in Section 5.0" of the RFQ. *Id.*

Mobomo's Past Performance Challenge

Mobomo argues that GSA identified weaknesses in its quotation for the past performance factor based on criteria not disclosed in the RFQ. Mobomo Protest at 17-23; Mobomo Comments at 8-13. Mobomo primarily argues that the RFQ did not require each past performance reference to independently demonstrate experience across all five pools of work. Mobomo Comments at 9. Mobomo further contends that

⁹ Our decision does not mean that an evaluation that simply restates a definition of an adjectival rating is always unreasonable. Here, however, we find that neither the agency's evaluation nor its response to the protest explains the basis for assigning a rating of very good to the protester's quotation for the technical/management approach and key personnel factors. For example, we see no explanation for why the strengths in the FreeAlliance proposal "outweigh[ed]" the weaknesses (meriting a very good rating), as opposed to "far outweigh[ed]" the weaknesses (which would have merited an exceptional rating). See Technical Evaluation Plan at 13.

GSA's evaluation of its quotation under the past performance factor was unreasonable because Mobomo submitted the required number of references demonstrating experience across all five pools of work. Mobomo Protest at 17-23; Mobomo Comments at 8-13.

The record here shows that Mobomo's quotation was rated as very good under the past performance factor. Award Decision Memorandum at 11. The TET assessed Mobomo's quotation with three strengths and two weaknesses under this factor. Technical Evaluation Report at 59-60. The two weaknesses assessed were:

- Two of the Past Performance references are basically the setup and management of [an operating system].
- Information provided by Mobomo inadequately covers the breadth of experience expected to be described by the Offeror. (Reference #1, page III-2; Reference #2, page III-3/4)[.]

Id. at 60.

GSA states that Mobomo's quotation was assessed a rating of very good under this factor. The contracting officer explains that during a consensus meeting, the TET concluded that three of Mobomo's past performance references did not address all five pools of work. Mobomo COS at 5. GSA further explains that, in assessing vendors' past performance references, a reference addressing less than all five pools of work was deemed less relevant than a reference that addressed all five pools. Mobomo Supp. MOL at 6.

Agencies are required to evaluate quotations based solely on the factors identified in the solicitation, and must adequately document the bases for their evaluation. *Camber Corp.*, B-413505, Nov. 10, 2016, 2016 CPD ¶ 350 at 5. In evaluating quotations, an agency may take into account specific, albeit not expressly identified, matters that are logically encompassed by, or related to, the stated evaluation criteria. *Id.* An agency may not give importance to specific factors, subfactors, or criteria beyond that which would reasonably be expected by vendors. See *Risk Analysis & Mitigation Partners*, B-409687, B-409687.2, July 15, 2014, 2014 CPD ¶ 214 at 6; *Lloyd H. Kessler, Inc.*, B-284693, May 24, 2000, 2000 CPD ¶ 96 at 3; *Consolidated Eng'g. Servs., Inc.*, B-311313, June 10, 2008, 2008 CPD ¶ 146 at 8.

GSA argues that the contracting officer reasonably interpreted the RFQ's requirement to identify "projects similar in scope to the requirements identified in Section 5.0" to mean that "a most relevant past performance reference is one that completely addresses all of the [pools of work] under Section [5.0 of the RFQ]," and that "a reference that addressed fewer Pools of past performance experience was not as relevant." Mobomo MOL at 7; RFQ at 43. GSA cites to our Office's decision in *Chloeta Fire, LLC*, B-416448, July 17, 2018, 2018 CPD ¶ 248, to support the agency's position that the RFQ required past performance references to address all five pools of work. Mobomo Supp. MOL at 6.

The facts in *Chloeta Fire* are not applicable to the case at hand.¹⁰ Here, a more relevant decision is *Consolidated Engineering Services, Inc. (Consolidated)*. In *Consolidated*, the solicitation advised that proposals would be evaluated to assess offerors' experience in eight "critical areas." *Consolidated Eng'g. Servs., Inc., supra* at 2-3. The solicitation stated that the agency would evaluate "experience in providing relevant and similar services to other corporations or Government agencies . . . in terms of the size, scope, and complexity of the operation[.]" *Id.* at 3. The contracting officer found the protester's past performance references were "less relevant" than the awardee's references because "the protester had not performed all of the eight 'critical areas' listed in the experience factor under one contract." *Id.* at 7. Our Office found that the agency had applied an unstated evaluation criterion because the solicitation did not state that the agency was seeking proposals from offerors who had performed all eight critical areas under one contract. *Id.* at 8. Rather, the solicitation said that the agency would evaluate offerors' experience to determine whether it was similar to the solicitation's requirements. *Id.* We therefore found that the agency had unduly restricted competition by precluding consideration of whether offerors' references demonstrated, individually or collectively, experience that was similar to the solicitation's requirements. *Id.*

Here, we think the agency's evaluation of quotations under the past performance factor applied an unstated evaluation criterion, prejudicing Mobomo. The solicitation did not advise vendors that each past performance reference was required to address all five pools of work, or that references that did not address all five pools of work would be assessed weaknesses. Rather, the solicitation asked for three past performance references and explained that the experience described in those references would be evaluated to assess relevance and quality of a vendor's performance. RFQ at 43. Based on this, we sustain Mobomo's challenge that GSA's evaluation of Mobomo's quotation was unreasonable.¹¹

¹⁰ In *Chloeta Fire*, the solicitation required vendors to demonstrate that they had performed work of similar in size and scope to the work described in the solicitation. *Chloeta Fire, supra* at 3. Our Office found reasonable the agency's conclusion that experience photographing weddings or sporting events was not similar to work photographing or videotaping wildfires and fire suppression efforts. *Id.* at 3-4.

¹¹ Mobomo also raises other challenges to the evaluation of past performance. For example, it argues that the agency failed to adequately document the record. Mobomo Comments at 8-10. Mobomo also contends that the agency evaluated vendors unequally because--as the agency concedes--it assigned the highest possible ratings to awardee Excelicon, even though four of the five references in that vendor's quotation did not show that it had performed all five pools of work in a single contract. Mobomo Supp. Comments at 16-17; Supp. COS at 2-3; see Mobomo Supp. MOL at 6-7. Because we sustain the protest based on the application of an undisclosed evaluation
(continued...)

Radus's Past Performance Challenge

Radus also argues that GSA's evaluation of its quotation under the past performance factor applied unstated evaluation criteria. Radus Protest at 5; Radus Comments at 3. Radus's quotation was rated as satisfactory under the past performance factor. Technical Evaluation Report at 38-39. The TET assigned Radus's quotation three strengths and one weakness under this factor. *Id.* The weakness assessed to Radus's quotation under this factor was, in relevant part, as follows:

Most of the past performance references only provide a list of items or tasks that [Radus] covered in the Pools referenced in the RFQ without any context to what was actually done. For example, Radus provided IT portfolio and investment management to [company A] as well as managed [company B]. They state that the support is relevant to such things as [DELETED]; however there are no specifics to support how they provided the support or what their involvement was.

Id.

Radus argues that the weakness was based on an unstated criterion because the RFQ only required vendors to provide descriptions of previous work to enable the agency to determine the relevance of those projects. Radus Comments at 2. Radus contends that GSA's evaluation unreasonably penalized Radus for not including detailed descriptions of exactly how it performed the projects listed as past performance references. *Id.* at 3.

GSA argues that the RFQ clearly advised vendors that quotations were required to include descriptions of projects, and that past performance would be evaluated based on relevance and quality of performance. Radus MOL at 8; see RFQ at 43. The contracting officer states that the weakness assessed to Radus's quotation under the past performance factor was applied to each of Radus's past performance references. In this regard, the contracting officer explains that the references "lacked context to describe the work performed, and did not specify how Radus [] (or the CTA members) actually provided support and what their roles were." Radus COS at 5.

We agree with the agency that the RFQ specifically required vendors to provide descriptions of the projects submitted as past performance references, and advised that those references would be evaluated for relevance and quality of performance. RFQ at 43. The RFQ included an attached "past performance reference form" that included an area for vendors to explain their performance responsibilities under each project and

(...continued)

criterion, the agency may also want to address the concerns that the quotations were not evaluated on an equal basis, and were not adequately documented.

another area for vendors to describe the work performed on the project. Radus AR, Tab 6, Past Performance Reference Form. Radus's disagreement with GSA's evaluation of these past performance references does not establish that the agency's evaluation was unreasonable. Based on our review of the record, we find that the agency's evaluation was reasonable and consistent with the solicitation, and therefore this ground of protest is denied.

Challenges to Key Personnel Experience

FreeAlliance, Radus, and Mobomo all challenge GSA's evaluation of their respective quotations under the RFQ's key personnel experience factor. FreeAlliance Protest at 6; FreeAlliance Comments at 10-12; Radus Comments at 2; Mobomo Protest at 14-17; Mobomo Comments at 3-8. FreeAlliance also argues that the agency should have found the quotation of TCG unacceptable and ineligible for award. FreeAlliance Comments at 13. We sustain Mobomo's protest, and deny FreeAlliance's and Radus's protests.

The key personnel experience factor required vendors to submit a management plan and the resume of their proposed program manager--the only key person listed in the RFQ--in order to demonstrate the ability to meet BPA requirements. RFQ at 41. The key personnel experience section required a resume for the proposed program manager, which was limited to three pages. *Id.* at 41-42. The RFQ explained that GSA would evaluate quotations by assessing a vendor's "management plan, the availability and qualifications of the proposed key personnel, their subject matter expertise in similar projects, and capability to meet the BPA requirements. *Id.* at 42.

Mobomo's Challenge to Key Personnel Experience

Mobomo argues that GSA's rating of its quotation under the key personnel experience factor was unreasonable because its quotation was assessed multiple strengths, no weaknesses, and was not assessed the top rating. Mobomo Protest at 14-17. Under the key personnel experience factor, Mobomo's quotation was assessed a rating of very good. Award Decision Memorandum at 11; Technical Evaluation Report at 59. The TET report's rating of Mobomo's quotation as very good under the key personnel experience factor was based on four noted strengths and no weaknesses or deficiencies. Technical Evaluation Report at 59.

The agency asserts that the rating assessed to Mobomo's quotation under the key personnel experience factor was reasonable and supported by the record. Mobomo MOL at 5. GSA explains that it found Mobomo's quotation "strong, but still limited" and that Mobomo's "strengths were not strong enough to warrant an 'Exceptional' rating." *Id.*; Mobomo Supp. MOL at 3. In addition, GSA states that although the TET's consensus report did not assign any weaknesses to the protester's quotation, the TET concluded that Mobomo's quotation lacked examples of experience with earned value management (EVM), which is an element under the government (IT) program

management office support pool of work. *Id.*; see RFQ at 10 (BPA Pool-1 points 11 and 12).

In support of the agency's position, the contracting officer states that this weakness was noted in evaluator 3's worksheet and was discussed during the consensus meeting, but was mistakenly omitted from the consensus report.¹² Mobomo COS at 4-5; Mobomo AR, Tab 22, Evaluator 3 Evaluation Sheet at 3. Referring to the lack of specific examples of EVM experience in the proposed program manager's resume, the contracting officer states "[a]s a result of this omission, the assigned adjectival rating of 'Very Good' is deemed appropriate." Mobomo COS at 4-5.

Mobomo's response here is twofold. First, Mobomo argues that GSA's claim that it assessed an EVM-related weakness is not supported by the record and is thus unreasonable. Mobomo Comments at 3; Mobomo Supp. Comments at 5. Second, Mobomo argues that any assessment of a weakness to its quotation for lack of EVM experience was unreasonable because it inflates the importance of EVM "to such a degree that it amounts to an unstated evaluation criterion." *Id.*

In order for our Office to review an agency's evaluation of quotations, the agency must have adequate documentation to support its judgment. *Advanced Tech. Sys., Inc.*, B-296493.6, Oct. 6, 2006, 2006 CPD ¶ 151 at 9. For procurements conducted pursuant to FAR subpart 8.4, an agency's evaluation judgments must be documented in sufficient detail to show that they are reasonable. *Harmonia Holdings Grp., LLC*, *supra* at 21. In reviewing an agency's evaluation, we do not limit our review to contemporaneous evidence, but consider all information provided, including the parties' arguments and explanations. *Netizen Corp.*, B-418281 *et al.*, Feb. 21, 2020, 2020 CPD ¶ 85 at 6-7 n.5. We give little weight to reevaluations and judgments made in the heat of litigation, *Boeing Sikorsky Aircraft Support*, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15, however, post-protest explanations that provide detailed rationale for contemporaneous conclusions and simply fill in previously unrecorded details will generally be considered, so long as those explanations are credible and consistent with the contemporaneous record. *Netizen Corp.*, *supra*.

The contemporaneous record shows that the TET's consensus report did not assess any weaknesses to Mobomo's quotation under the key personnel experience factor. The record does, however, reflect that evaluator 3's notes identified the following weakness: "[n]o specific experience listed regarding EVM." Mobomo AR, Tab 22, Evaluator 3 Evaluation Sheet at 3. This weakness was qualified, however, by the statement that "the program manager does have experience effectively communicating project scope and cost." *Id.*

¹² Additionally, the agency contends that this weakness is consistent with its evaluation of other vendors in this area. Mobomo MOL at 6; Mobomo Supp. MOL at 3 (*citing* Technical Evaluation Report at 46, 80 (evaluation of Vendor 17 and Vendor 32, respectively)).

In our view, the agency's response does not clearly explain why the agency's evaluation was reasonable. For example, even accepting GSA's representation that it intended to include this weakness in the TET consensus report, the contemporaneous record does not address, and the agency's response to the protest does not explain, why the strengths assigned did not offset the weakness in a manner that would merit the assignment of a higher rating. The record does not contain, for example, any analysis of the noted strengths as compared with the noted weakness, or a statement describing why the four strengths were not enough to warrant a rating of exceptional. Accordingly, we sustain this ground of protest because the record is not sufficient to allow us to review the agency's evaluation in this area for reasonableness.

Next, Mobomo asserts that GSA applied an unstated evaluation criterion by assigning a weakness to its quotation on the ground that the resume of Mobomo's proposed program manager did not list specific experience with EVM. Mobomo Comments at 3-6; see Mobomo COS at 4-5. Mobomo argues that the RFQ required vendors to show that the proposed program manager has the capability to meet the BPA requirements as described in the RFQ's pools of work, but did not require the program manager's resume (limited to no more than three pages) to specifically address each of the 97 bullet points composing the pools. Mobomo Comments at 5. Mobomo claims that vendors could not have reasonably expected that GSA would evaluate proposed program managers' resumes for specific examples of experiences covering each individual bullet point in the RFQ's pools of work, such as incorporating and implementing EVM, when the RFQ limited resumes to three pages.¹³ *Id.*

GSA argues that the RFQ "forewarned [vendors] that a weakness would be identified if they failed to [demonstrate] qualifications, experience, and capabilities, beyond cutting and pasting of the RFQ." Mobomo Supp. MOL at 2. The contracting officer states that EVM is a requirement under RFQ pool number one, therefore, the agency reasonably expected vendors to demonstrate experience with EVM. Mobomo Supp. COS at 1.

We agree with the agency that EVM was specifically listed in the solicitation as an element of the government (IT) program management office support work pool, which is a BPA requirement. See RFQ at 11. However, we find that GSA's assignment of a weakness to Mobomo's quotation was not reasonable because the agency does not explain why all 97 items in the five pool requirements were required to be addressed in the resume for the program manager, or why EVM was of such importance that it was

¹³ Further, Mobomo states that this standard was impossible to meet. As the 97 bullet points cover seven pages of the RFQ, Mobomo argues that a three-page resume could not provide specific examples showing experience with each point. Mobomo Supp. Comments at 7.

required to be addressed with specificity.¹⁴ This finding is also supported by the fact that the RFQ contained an express list of minimum requirements to be included in the resumes of proposed program managers, none of which were a statement showing specific experience with EVM. *Id.* at 42.

For the reasons explained above, we conclude that GSA has not reasonably explained the basis for Mobomo's rating of very good under the key personnel experience evaluation factor. In addition, to the extent GSA assessed a weakness to Mobomo's quotation for failing to include specific examples of EVM in its proposed program manager's resume, the weakness was based on an unstated evaluation criterion. See *Risk Analysis & Mitigation Partners, supra*. As the contracting officer explains, this weakness negatively affected Mobomo's rating under this factor. See Mobomo COS at 5 ("As a result of this omission, the assigned adjectival rating of 'Very Good' is deemed appropriate"). But for GSA's error here, Mobomo may have been in line for a higher overall technical rating. This ground of protest is sustained.

FreeAlliance's Challenge to Key Personnel Experience

FreeAlliance also argues that GSA's evaluation of its quotation under the key personnel experience factor improperly applied an unstated evaluation criterion. FreeAlliance Protest at 6; FreeAlliance Comments at 11-12; FreeAlliance Supp. Comments at 11-14. The TET assessed one weakness to FreeAlliance's quotation under the key personnel factor, stating: "Key Personnel, Section 5 [of the quotation], makes a passing reference to the BPA [program manager] and then continues to discuss the Technical Management/[program management office (PMO)] approach (Pool 1 PWS) and not the experience of the key personnel in relation to the PMO approach." Technical Evaluation Report at 33.

FreeAlliance argues that the agency's assessment of a weakness for failing to "tie the Program Manager's experience to FreeAlliance's technical management PMO approach" is unreasonable because the solicitation did not contemplate such a requirement. FreeAlliance Protest at 6. The protester argues that vendors were not required to discuss the proposed program manager's experience in relation to the proposed management plan, as the plan was not related to the key personnel's qualifications, availability, experience on similar projects, or capabilities under the BPA. FreeAlliance Comments at 11.

GSA states that FreeAlliance's quotation was assessed a weakness because it "did not mention [the proposed program manager's] experience with the Technical Management approach, rather it focused on the firm's experience with Technical Management approach." FreeAlliance COS at 5. The agency notes that the RFQ explicitly informed

¹⁴ In this regard, the contracting officer acknowledges that "the services to be performed under the Corporate IT Services BPA are not EVM centric. . . ." Mobomo Supp. COS at 1.

vendors that the evaluation would assess “the availability and qualifications of the proposed key personnel, their subject matter expertise, experience in similar projects, and capability to meet the BPA requirements.” FreeAlliance MOL at 4; RFQ at 42. GSA explains that FreeAlliance’s quotation “only provided a limited description of the key personnel experience, and, for example, did not describe how the experience of the proposed Program Manager applied to its technical management approach, aside from simply providing the resume of the proposed Program Manager as an attachment.” FreeAlliance MOL at 4; FreeAlliance Supp. MOL at 3-4. Put differently, GSA argues that the section of FreeAlliance’s quotation addressing the key personnel experience factor did not focus on the proposed key person’s experience, but rather focused on information pertaining to the technical/management approach factor. See FreeAlliance Supp. MOL at 4.

We conclude the agency reasonably found that FreeAlliance’s quotation addressed what its program manager will do and how its proposed team will achieve the BPA’s objectives. See FreeAlliance AR, Tab 3, FreeAlliance Technical Volume at 31-47. The agency also reasonably concluded, however, that the description of the anticipated work to be performed by this individual did not address the individual’s experience and how it related to the RFQ requirements, as required by the key personnel experience factor. See Technical Evaluation Report at 33. Based on our review of the record, we conclude that the agency’s assessment of a weakness here was not arbitrary or based on a criterion not contemplated by the RFQ. This ground of protest is denied.

Radus’s Challenge to Key Personnel Experience

Radus also argues that GSA did not evaluate its quotation under the key personnel experience factor in accordance with the RFQ. Radus Protest at 4. Radus’s quotation was rated as satisfactory under the key personnel experience factor. Award Decision Memorandum at 13. The TET assessed three strengths, three weaknesses, and no deficiencies to Radus’s quotation under this factor, and found the quotation to carry moderate risk of unsuccessful performance. Technical Evaluation Report at 38. The assessed weaknesses are as follows:

- The program manager’s resume does not list any specific experience leading web-based application development projects or data migration type projects per Pool #2 pages 11-12 of the PWS.
- There is mention of defining scope for enterprise IT projects, however examples of specific IT projects were not included (Page 2 Resume).
- There is no mention of security lifecycle support or knowledge of [National Institute of Standards and Technology], [Financial Information Security Management Act] or other federal security policies.

Id. This rating, along with the ratings assessed under the other two technical factors, contributed to Radus’s overall technical rating of satisfactory. *Id.* at 36-39; Radus COS at 6-7.

We first note that Radus challenges only the second of the three weaknesses assessed to its quotation, which concerns the agency's finding that the resume of its proposed program manager did not include "examples of specific IT projects." See Radus Protest at 4; Radus Comments at 2; Technical Evaluation Report at 38.

We find that GSA's interpretation of the RFQ as requiring the inclusion of specific examples of IT projects in the three-page resumes of proposed program managers is so removed from the stated evaluation criteria that vendors could not have reasonably understood they would be required to meet this criterion. Similar to our review of the EVM-related concern cited in GSA's evaluation of Mobomo's quotation discussed above, we agree with the protester that there was not a reasonable expectation that vendors were required to include examples of IT projects within the 3-page resume. See *Risk Analysis & Mitigation Partners, supra*.

Given that Radus has challenged only one weakness assessed to its quotation under the key personnel experience factor, but has not explained how this area of the agency's technical evaluation affected Radus's overall technical rating and award eligibility, we cannot conclude that Radus was prejudiced. See *Cyberdata Techs., Inc., supra*. The record shows that Radus earned an overall technical rating of satisfactory and was technically ranked 35 out of 43 vendors. Award Decision Memorandum at 15. Radus has not articulated how, but for this specific error, it may have been in line for award consideration. We therefore deny this protest argument. However, because we sustain the protest on other grounds raised by FreeAlliance and Mobomo, and recommend that the agency make a new award decision, the agency may want to review this protest allegation.

Evaluation of TCG's Quotation

FreeAlliance also challenges the evaluation of one of the awardees' proposed key personnel arguing that the TCG quotation was unacceptable and the award unreasonable, because, at the time of quotation submission, TCG's proposed program manager was not in its employ, and the firm did not provide a letter of commitment for the proposed program manager as required by the RFQ. FreeAlliance Comments at 13; FreeAlliance Supp. Comments at 17-18.

Under the key personnel experience factor, the RFQ required submission of a resume for all proposed key personnel, and stated that all resumes must indicate whether the individual was in one of the following categories:

- Current, on-board Contractor employee
- Current, on-board employee for, subcontractor to Contractor
- Commitment made between Contractor and individual, signed Commitment Letter attached
- Commitment made between, subcontractor to Contractor, and individual, signed Commitment Letter attached

RFQ at 42.

GSA's evaluation acknowledged and accounted for TCG's omission of a letter of commitment for the proposed program manager by assessing a weakness for the firm's failure to provide the letter. Technical Evaluation Report at 98. The RFQ did not state, however, that a quotation would be rejected as unacceptable if a vendor did not supply a letter of commitment for a proposed program manager not currently in the vendor's employ. See RFQ at 42. Under these circumstances, we find that it was within the agency's discretion to assess a weakness to TCG's quotation, rather than reject it as unacceptable. This ground of protest is denied.

Challenges to the Price Evaluation

FreeAlliance and Radus challenge the agency's evaluation of their respective price quotations, arguing that GSA failed to evaluate all of the proposed labor rates submitted in the price quotations. FreeAlliance Comments at 3; Radus Protest at 2, 5, 7; Radus Comments at 3-4. For the reasons explained below, we sustain the ground raised by FreeAlliance and deny the ground raised by Radus. Before discussing the protest grounds, we first explain the agency's price evaluation methodology.

Price Evaluation Methodology

The RFQ required vendors to submit a narrative price volume and a price quotation using an attached price quotation template. RFQ at 40. The price quotation template required vendors to propose fixed-price labor-hour rates for 300 labor categories: 150 for work to be performed at the government worksite, and 150 for the contractor's worksite. RFQ at 17-30, 43; RFQ, Attach. B, Price Quote Template.

The RFQ advised that vendors' hourly rates for all BPA labor categories, including any proposed discounts, would be evaluated for reasonableness. RFQ at 43. The RFQ stated that the government "is not utilizing an evaluation formula that applies hours to the different labor categories in order to arrive at a formulated total evaluation price[.]" and that "[h]ourly rates for all labor categories will be evaluated for the best value to the Government." *Id.*

The contracting officer explains that the agency's evaluation of price quotations calculated the mean and standard deviation among all quotations for each of the 300 labor rates. FreeAlliance COS at 6. The agency then assessed whether each of a vendor's 300 proposed rates were above or below the mean plus one standard deviation for that rate.¹⁵ *Id.*; Award Decision Memorandum at 15. The agency then

¹⁵ Based on the pricing data provided, we presume that when the agency refers to the "mean plus standard deviation," it refers to a value equaling the mean value plus one positive standard deviation from the mean. See Price Analysis; Award Decision Memorandum at 16.

assigned a numerical percentage rating to the rates that were equal to or below the mean plus one standard deviation for all vendors for that rate; a 100 percent rating meant, for example, that all of the vendor's proposed rates were equal to or below the mean plus one standard deviation. See Award Decision Memorandum at 15-18; FreeAlliance COS at 6.

The agency determined that a quotation's overall price was fair and reasonable if the numerical percentage rating exceeded the following statistical threshold: at least 54.59 percent of a quotation's proposed labor rates--that is, 164 out of the 300 rates--were equal to or below the mean plus one standard deviation value in the respective rate categories.¹⁶ *Id.* As explained further below, this reasonableness "cutoff" became determinative for the award decision because the agency determined that award would be made to all vendors that received an overall rating of exceptional and proposed a reasonable price, that is, an overall price rating which met the statistical threshold. See FreeAlliance COS at 5.

FreeAlliance's Challenge to the Price Evaluation

The agency found that 150 out of 300 labor rates proposed by FreeAlliance were less than or equal to the mean plus one standard deviation for all vendors' proposed prices for a particular rate. Award Decision Memorandum at 15-18; Price Analysis, Price Ranking Tab;¹⁷ FreeAlliance COS at 6. Since only 50 percent of FreeAlliance's proposed rates were equal to or below the mean plus one standard deviation--a value lower than the agency's cutoff of 54.59 percent--GSA determined that FreeAlliance's price as a whole was not fair and reasonable. Award Decision Memorandum at 15. Based on FreeAlliance's overall technical rating of very good, and its price rating of 50 percent (indicating that the price was not fair and reasonable), the agency did not consider FreeAlliance's quotation for an award. FreeAlliance COS at 6.

In response to FreeAlliance's protest, GSA concedes that it erred when evaluating FreeAlliance's price quotation because it evaluated only 150 of the protester's 300 proposed rates. FreeAlliance Supp. COS at 1. During the course of this protest, the contracting officer acknowledged that all 300 of FreeAlliance's proposed rates were less than or equal to the mean plus one standard deviation for those rates, and thus met the

¹⁶ A higher price rating meant that more of a quotation's proposed rates were equal to or below the mean plus one standard deviation level, as opposed to a quotation with a lower price rating. The agency explained that a higher price rating was more "favorable" for purposes of the award decision. Award Decision Memorandum at 15.

¹⁷ The price analysis spreadsheet is found at different locations in each record, however, citations to the "price analysis" all refer to the same spreadsheet. See FreeAlliance AR, Tab 9, BPA Price Analysis; Mobomo AR, Tab 18, BPA Price Analysis; Radus AR, Tab 22, BPA Price Analysis.

statistical threshold for fair and reasonable pricing. *Id.* The contracting officer also confirms that FreeAlliance's price quotation should have been rated 100 percent. *Id.*

While admitting to erroneously calculating FreeAlliance's price rating as 50 percent, GSA argues nonetheless that FreeAlliance was not prejudiced by the agency's error. The agency states that only firms whose quotations received overall technical ratings of exceptional were considered for award, while FreeAlliance received an overall technical rating of very good. See FreeAlliance Supp. MOL at 7. The record shows that all nine quotations that received the highest-possible technical rating, and also received price ratings that were above the agency's 54.59 percent cutoff, received an award. *Id.*; see also Award Decision Memorandum at 14, 21-23.

FreeAlliance insists that GSA's error was prejudicial, and we agree. FreeAlliance Supp. Comments at 2. As discussed above, we agreed with FreeAlliance that the agency's evaluation under the key personnel factor was unreasonable; we also agreed that the assignment of adjectival ratings for the individual evaluation factors is not adequately supported by the record. Additionally, as discussed below, we agree with the protester's argument that the best-value tradeoff used to make the award decision was not reasonable. Our conclusions regarding these arguments shows that, but for the agency's erroneous evaluation of FreeAlliance's proposed price, the protester would have had a substantial chance for award. See *DRS ICAS, LLC, supra*. We therefore conclude that the protester was prejudiced by the agency's error regarding the price evaluation, and sustain the protest on this basis.¹⁸

Radus's Challenge to the Price Evaluation

Radus also argues that GSA failed to consider all of its proposed labor rates, specifically those for the contractor work site. Radus Protest at 2. GSA found that 194 of the 300 labor rates proposed by Radus represented prices that were less than or equal to the mean plus one standard deviation for those rates. Price Analysis, Price Ranking Tab. This rating of 65 percent meant that Radus's overall proposed price was considered fair and reasonable, as it was above the 54.59 percent cutoff. Award

¹⁸ FreeAlliance also asserts that the agency failed to consider vendors' total evaluated price as part of the price evaluation. FreeAlliance Comments at 4-6. The RFQ, however, expressly stated that the agency "is not utilizing an evaluation formula that applies hours to the different labor categories in order to arrive at a formulated total evaluated price." RFQ at 43. Our Bid Protest Regulations contain strict rules for the timely submission of protests. A protest challenging the terms of the solicitation must be filed prior to the time set for receipt of quotations. 4 C.F.R. § 21.2(a)(1); *Source Diversified, Inc.*, B-403437.2, Dec. 16, 2010, 2010 CPD ¶ 297 at 4. As the RFQ expressly stated that the agency would not evaluate quotations based on total evaluated price, this challenge, raised for the first time after award, is an untimely challenge to the terms of the solicitation and is dismissed. 4 C.F.R. § 21.2(a)(1).

Decision Memorandum at 17. The contracting officer explains that, based on the price and non-price factors, Radus was not considered for award. Radus COS at 6.

We find that the record shows that GSA evaluated all 300 of Radus's proposed labor rates. The price ranking tab of the price analysis spreadsheet shows that Radus proposed 106 rates that were higher than the agency's statistical threshold, and 194 rates that were less than or equal to the agency's statistical threshold--totaling 300 rates. Price Analysis, Price Ranking Tab. Unlike GSA's analysis of FreeAlliance's price quotation, where the price analysis spreadsheet clearly showed that only 150 proposed labor rates were considered, the price analysis spreadsheet shows that all 300 rates proposed by Radus were considered in GSA's price evaluation. Price Analysis, Price Ranking Tab. Based on our review of the record, we deny Radus's ground of protest.

Challenges to the Award Decision

FreeAlliance argues that GSA's award decision was unreasonable and not in accordance with the solicitation. FreeAlliance Protest at 5-6; FreeAlliance Comments at 8-10; FreeAlliance Supp. Comments at 6-11. The protester raises two primary challenges: (1) the award decision was unreasonable because its consideration of price was limited to the number of reasonable rates proposed, rather than the cost to the government; and (2) the award decision considered only quotations that received an overall technical rating of exceptional and that had at least a minimum number of reasonable rates. We agree and sustain the protest.

The RFQ advised that GSA would evaluate quotations to identify the best value to the government. RFQ at 40. The RFQ explained that the evaluation would consider price and three non-price factors, with the non-price factors being significantly more important than price. *Id.* Further, the solicitation stated:

The Government intends to use the trade-off process in selecting offerors that are most advantageous. The trade-off process is a method of evaluating price and other factors as specified in the RFQ to select the offer that provides the best value to the Government. The process permits trade-offs among price and technical factors. Because the trade-off process allows award to the contractor that provides the Government with the best value, it allows the Government to accept other than the highest technically rated offer and other than the lowest priced offer.

Id.

The contracting officer explains GSA's best-value decision, in relevant part, as follows:

The TET initially recommended twelve (12) firms for award; a combination of nine (9) "Exceptional" rankings and three (3) "Very Good" rankings. The [contracting officer] and the TET discussed the recommendations and

importance of technical superiority in the evaluation process. Collectively, the TET agreed that an overall ranking of “Exceptional” was in the Government’s best interest. To determine best value, the [contracting officer] considered the overall technical evaluation ranking and the overall price ranking. Taking into consideration, the PWS/Rfq stated that “*technical was significantly more important than price*”, the [contracting officer] used the adjectival rating of “Exceptional” as a benchmark coupled with the 54.59% cutoff for fair and reasonableness in price.

FreeAlliance Supp. COS at 3. GSA argues that the award decision memorandum contains a “rational and meaningful trade-off analysis” that was in accordance with the RFQ’s evaluation scheme. FreeAlliance Supp. MOL at 8 (*citing* Award Decision Memorandum at 6, 10-22). We disagree.

First, FreeAlliance argues that the award was improper because the tradeoff decision did not consider the cost to the government, and instead ranked quotations based on the number of reasonable rates proposed. FreeAlliance Comments at 5, 8. We agree, as set forth below, that the award failed to comply with the provisions of the FAR that govern the placement of orders and establishment of BPAs under the FSS.

In *Noble Supply & Logistics, Inc.*, B-418141, Jan. 16, 2020, 2020 CPD ¶ 32, our Office explained that the provisions of FAR subpart 8.4 require that BPAs be established with schedule contractors that can provide required supplies or services representing the best value and “result[ing] in the lowest overall cost alternative (considering price, special features, administrative costs, etc.) to meet the Government’s needs.” *Id.* at 7 (*quoting* FAR 8.404(d)). For this reason, we sustained a protest challenging the terms of a solicitation that anticipated the establishment of a BPA with the vendor whose quotation offered the highest technical merit at a fair and reasonable price. *Id.* at 10.

In *Noble*, we explained that the purpose of a price reasonableness review is to determine whether prices are too high. *Id.* at 8 (*citing* *Sterling Servs., Inc.*, B-291625, B-291626, Jan. 14, 2003, 2003 CPD ¶ 26 at 3). The assessment of reasonableness, however, does not provide a basis to determine whether one vendor’s pricing will result in the “lowest overall cost alternative.” *Id.* We concluded that the solicitation’s basis for award was improper because, “[w]ithout any comparative assessment of prices, any best-value determination will be made without a weighing of the value and benefits associated with a vendor’s approach against its associated cost to the government.” *Id.*

Here, the solicitation stated that the agency “intends to use the trade-off process in selecting offerors that are most advantageous,” which “is a method of evaluating price and other factors as specified in the RFQ to select the offer that provides the best value to the Government.” RFQ at 40. The RFQ advised that the “technical factors, when combined, are significantly more important than price.” *Id.*

As discussed above, the agency evaluated the reasonableness of each of the 300 rates proposed by a vendor by determining the percentage of those rates that were less than

or equal to the statistical threshold for reasonableness: the mean plus one standard deviation. Award Decision Memorandum at 15; see FreeAlliance COS at 5-6. A quotation's overall price was determined fair and reasonable if at least 54.59 percent--or, 164 of 300--of the proposed rates were equal to or lower than the mean plus one standard deviation in the respective rate categories. *Id.*

The agency selected for award all quotations that were assigned an overall technical rating of exceptional, provided that the quotation also proposed a fair and reasonable price by satisfying the statistical threshold. See Award Decision Memorandum at 14-17, 21-23. In this regard, as FreeAlliance notes, the agency's evaluation of a vendor's proposed rates in the award decision simply established the number of rates above or below the agency's statistical threshold, but did not necessarily establish the relative price to the government for each quotation. See FreeAlliance Comments at 5. We agree, as a quotation with more rates equal to or below the statistical threshold as compared to a competing quotation could nonetheless have proposed higher overall rates than the competing quotation. In this regard, six of the nine awardees submitted price quotations that were rated at less than 100 percent, meaning that some of their proposed labor rates were above the mean plus one standard deviation for rates proposed by all vendors. See Award Decision Memorandum at 21-23. For example, TCG, an awardee, submitted a price quotation which the agency assigned a price rating of 58 percent. *Id.* at 17. The agency made award to TCG without considering the actual cost to the government regarding the 42 percent of TCG's rates that were above the statistical threshold.

The award decision, therefore, considered only the reasonableness of the proposed rates, and did not identify whether one vendor's proposed rates would result in a lower price to the government as compared to another vendor's proposed rates. See *id.* For these reasons, we conclude that the award decision failed to engage in a comparative assessment of prices--which is a fundamental requirement of an acquisition conducted under the FSS provisions of FAR subpart 8.4.¹⁹ See FAR 8.404(d); *Noble Supply & Logistics, Inc.*, *supra*, at 7-10.

Next, we also agree with FreeAlliance that GSA's best-value decision was unreasonable and not in accord with the RFQ's evaluation scheme. The FAR imposes

¹⁹ We recognize that the solicitation advised that "[t]he Government is not utilizing an evaluation formula that applies hours to the different labor categories in order to arrive at a formulated total evaluation price." RFQ at 42. The agency also advised however, the RFQ stated that "[h]ourly rates for all labor categories will be evaluated for the best value to the Government." *Id.* Moreover, the FSS provisions of FAR subpart 8.4 require agencies to determine the "lowest overall cost alternative." FAR 8.404(d). Although the agency requested and received only labor rates, it was nonetheless obligated to determine the relative price to the government for each quotation. The agency's limited consideration of price reasonableness does not meet this requirement. See *Noble Supply & Logistics, Inc.*, *supra*, at 8-10.

specific requirements applicable to best-value decisions related to the establishment of BPAs under the FSS. See FAR 8.405-3(a). Included in these requirements is an evaluation of price as part of the best-value decision. FAR 8.405-3(a)(1)-(2); 8.404(d). In a best-value procurement, it is the function of the source selection authority to perform a tradeoff between price and non-price factors to determine whether one quotation's technical superiority is worth the higher price. *Cyberdata Techs., Inc., supra* at 5. Before an agency can select a higher-priced, technically superior quotation over a lower-priced, lower technically rated quotation, the decision must be supported by a rational explanation of why the higher-rated quotation is superior, and why that technical superiority warrants paying a price premium. *Id.*; *Harmonia Holdings Grp., LLC, supra* at 24-25.

As discussed above, GSA's price evaluation rated price quotations based on the number of labor rates that were below the agency's established threshold for reasonableness, rather than the cost to the government. The award decision concluded that any quotation that received an overall technical rating of exceptional and a price rating of at least 54.59 percent would receive an award. Award Decision Memorandum at 15; see FreeAlliance COS at 5-6. Thus, even if the agency's rating of price based solely on the number of reasonable labor rates was a valid basis to compare quotations (which it was not), the contemporaneous record shows that the agency did not consider whether the highest technically rated quotations were worth a premium as compared to lower technically rated quotations with higher (*i.e.*, more favorable) price ratings.

In sum, we find that the award decision did not consider price in the manner required by section 8.404(d) of the FAR. We also find that the award decision did not reasonably explain why the higher-rated quotations warranted paying a price premium as compared to lower technically rated quotations with higher (*i.e.*, more favorable) price ratings. *Cyberdata Techs., Inc., supra*; *Harmonia Holdings Grp., LLC, supra* at 24-25. We therefore sustain the protest.

RECOMMENDATION

We sustain the protests of FreeAlliance and Mobomo because GSA did not adequately document the basis for assigning adjectival ratings to vendors' quotations under the technical evaluation factors, failed to correctly evaluate FreeAlliance's price quotation, and failed to reasonably evaluate Mobomo's quotation under the past performance and key personnel experience factors. Additionally, we find that GSA's award decision failed to reasonably consider the cost to the government as required by Federal Acquisition Regulation (FAR) subpart 8.4, because the evaluation and award decision only assessed price quotations for reasonableness. We recommend that GSA reevaluate technical and price quotations consistent with this decision and adequately document the results of those evaluations. We further recommend that the agency conduct a new best-value tradeoff, consistent with this decision, and document the results of the award decision.

We also recommend that FreeAlliance and Mobomo be reimbursed their costs of filing and pursuing their protests, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1).

The protesters' certified claims for such costs, detailing the time expended and costs incurred, must be submitted directly to GSA within 60 days after receipt of this decision. *Id.* § 21.8(f)(1).

The protests are sustained.

Thomas H. Armstrong
General Counsel