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Decision

Matter of: Watts-Obayashi, Joint Venture; Black Construction Corporation

File: B-409391; B-409391.2; B-409391.3

Date: April 4, 2014

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John C. Masterson, Esq., Department of the Navy, for the agency.

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DIGEST

Protests that the agency improperly evaluated proposals are denied where the proposals failed to provide information that was required under the solicitation.

DECISION

Watts-Obayashi, Joint Venture,¹ of Honolulu, Hawaii, and Black Construction Corporation, of Tamuning, Guam, protest the award of a contract to Nova Group, Inc.-Underground Construction Company, Inc., a Joint Venture, of Napa, California, under request for proposals (RFP) No. N40192-13-R-1300, issued by the Department of the Navy, Naval Facilities Engineering Command, for construction services in Guam. The protesters challenge the agency’s evaluation of their proposals and the selection decision.

We deny the protests.

¹ The joint venture is comprised of Watts Constructors, LLC, of Honolulu, Hawaii, and Obayashi Corporation of Japan.

BACKGROUND

The RFP provided for the award of a fixed-price contract for the construction of a new fuel transfer pipeline and upgrade of existing pipelines from the Sasa Valley Fuel Farm to Andersen Air Force Base, Guam. Among other things, the contractor will provide new fuel transfer pumps and expand an existing pumphouse. RFP § 01 11 00, Summary of Work, ¶ 1.4.1.

Offerors were informed that award would be made on a best-value basis, considering price and the following five non-price factors: technical approach, safety, small business utilization, recent relevant experience, and past performance on recent relevant projects. The technical approach, safety, small business utilization, and recent relevant experience factors were of equal importance, and when combined, of equal importance to the past performance factor. The five non-price factors, when combined, were approximately equal to price. Id. § 00210, Evaluation Factors for Award, ¶ 2.3.

With regard to the technical approach factor, the RFP instructed offerors to provide an organizational chart that included the project manager, quality control manager, site safety and health officers, and superintendent. Offerors were also required to provide a minimum of two site safety and health officers, one at each of the two major project sites. Id., (Factor 1, Technical Approach); see also RFP § 01 35 26, Government Safety Requirements, ¶ 1.6.1.1 (Site Safety and Health Officer). As relevant here, the RFP required offerors to identify and provide the qualifications and experience for a project manager and a quality control manager. The quality control manager was required to have a minimum of 10 years combined experience in the following positions: project superintendent, quality control manager, project manager, project engineer, or construction manager on similar size and type construction contracts, and at least two years experience as a quality control manager. Id. § 01 45 00.00 20, Quality Control, ¶ 1.5.1.2. Additionally, the quality control manager was required to report to the project superintendent. Id., ¶ 1.4.

With regard to the safety factor, offerors were required to submit experience modification rates (EMR) and Occupational Safety and Health Administration Days Away from Work, Restricted Duty, or Job Transfer rates (DART) for calendar years 2010, 2011, and 2012, and to describe their plans to evaluate the safety performance of potential subcontractors, as well as methods to ensure and monitor safe work practices at all subcontractor levels.² RFP § 00210, Evaluation Factors

² The EMR compares a company's annual losses in insurance claims against its policy premiums over a three-year period. RFP § 00210, Evaluation Factors for Award, ¶ 2.3 (Factor 2, Safety). The DART rate represents the total non-fatal injuries and illnesses resulting in days away from work, restricted work activity, (continued...)

for Award, ¶ 2.3 (Factor 2, Safety). Offerors were instructed to explain any extenuating circumstances that affected the EMR and DART rates, including upward or downward trends.³ Offerors also were instructed to submit EMR and DART rates for each member of a partnership or joint venture, and to provide an explanation if no EMR or DART was available. Offerors were advised that they were responsible for providing detailed, current, accurate, and complete safety information. Id.

With respect to the experience factor, the RFP requested that offerors submit a maximum of six construction projects that best demonstrated the offeror's experience on relevant projects that were similar in size, scope, and complexity to the RFP work.⁴ Offerors were informed that the projects were required to have been completed within 10 years of the date that the RFP was issued,⁵ and defined relevant project as construction of a fuel pipeline similar in scope, size, and complexity to the Sasa Valley project. The RFP provided that demonstrated combined experience in construction of a fuel pipeline with an electrical high-voltage system or fuel pumphouse that was similar in scope, size, and complexity to the work in the RFP may receive a higher rating. Id. (Factor 4, Recent Relevant Experience). Offerors were warned that projects that were not specifically fuel pipeline projects would not be relevant. See RFP amend. 2, Question/Answer No. 2, at 1. With respect to subcontractor's experience, the RFP advised that an offeror

may utilize [the] experience of a subcontractor that will perform major or critical aspects of the requirement to demonstrate construction experience under this evaluation factor. If an Offeror submits a project performed by a subcontractor, the Offeror must provide an explanation of the meaningful involvement that the subcontractor will have in performance of this contract and submit

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and/or job transfer per 100 full-time employees for a given period of time (usually 1 year). 76 Fed. Reg. 59,952 (Sept. 28, 2011).

³ The RFP provided that lower EMR and DART rates would be given greater weight in the evaluation. RFP § 00210, Evaluation Factors for Award, ¶ 2.3 (Factor 2, Safety).

⁴ The RFP provided that the evaluation of offerors' past performance would be based upon the projects identified under the experience factor. RFP § 00210, Evaluation Factors for Award, ¶ 2.3 (Factor 5, Past Performance).

⁵ Elsewhere the RFP informed offerors that the 10-year period would be calculated from the date set for receipt of initial proposals. See RFP § 00210, Evaluation Factors for Award, ¶ 2.3 (Definitions).

evidence of a binding team agreement or other contractual agreement in the technical proposal cover letter which creates legal responsibility on the part of the subcontractor.

RFP § 00210, Evaluation Factors for Award, ¶ 2.3 (Factor 4, Recent Relevant Experience).

The Navy received proposals from seven offerors, including Watts-Obayashi, Black, and Nova Group, which were evaluated by the agency's source selection evaluation board (SSEB). Agency Report (AR), Tab 7, Business Clearance Memorandum, at 6, 10.⁶ The protesters' and awardee's proposals were evaluated as follows:

	Nova Group	Watts-Obayashi	Black Construction
Technical Approach	Outstanding	Acceptable	Marginal
Safety	Good	Acceptable	Acceptable
Small Business Utilization	Good	Good	Good
Experience	Outstanding	Acceptable	Marginal
Past Performance	Substantial Confidence	Satisfactory Confidence	Satisfactory Confidence
Non-Price Rating	Outstanding	Acceptable	Marginal
Total Price⁷	\$57,600,840.00	\$50,049,521.63	\$52,444,700.00
Overall Ranking	1	2	6

AR, Tab 7, SSEB Report, at 114, 115. The SSEB's adjectival ratings were supported by a narrative discussion that identified the offerors' respective strengths and weaknesses.⁸

⁶ The Navy submitted separate reports in response to Watts-Obayashi's and Black's protests. Unless otherwise indicated, our citations are to the report submitted in response to Watts-Obayashi's protest.

⁷ The RFP anticipated evaluating prices by applying a 10 percent price evaluation preference for HUBZone small business concerns. Since neither Watts-Obayashi, Black, nor Nova Group is a HUBZone small business concern, the price preference plays no role in this decision. AR, Tab 7, SSEB Report, at 110.

⁸ Proposals were evaluated as outstanding, good, acceptable, marginal, or unacceptable. As relevant here, an outstanding rating reflected a proposal that met
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Evaluation of Watts-Obayashi's Proposal

Watts-Obayashi's acceptable rating under the technical approach factor reflected the SSEB's assessment of one strength and two significant weaknesses.⁹ The significant weaknesses were Watts-Obayashi's proposal of only one site safety and health officer, contrary to the RFP's requirements, and failure to demonstrate that its proposed quality control manager had 10 years of experience in required positions. Id. at 51.

Watts-Obayashi's proposal was also evaluated as acceptable under the safety factor. The SSEB identified one strength in Watts-Obayashi's proposal under this factor for Watts Constructors' low to very low risk EMR from 2010 to 2012. The SSEB also noted, however, that the other joint venture partner, Obayashi Corporation, had no EMR or DART rates because the firm is based in Japan where workers compensation is run by the government and the EMR system is not used. Although the SSEB identified no weaknesses or deficiencies in the proposal under this factor, the SSEB noted that Watts-Obayashi had not explained an upward trend of its EMR. See id. at 52-54.

Watts-Obayashi's proposal was also evaluated as acceptable under the recent, relevant experience factor. No projects were submitted for work performed by the Watts-Obayashi joint venture, but the SSEB found that the joint venturers had

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the requirements and indicated an exceptional approach and understanding of the requirements and that proposal strengths far outweighed any weaknesses; a good rating reflected a proposal that met the requirements and indicated a thorough approach and understanding, and that strengths outweighed any weaknesses; an acceptable rating reflected a proposal that met the requirements and indicated an adequate approach and understanding, and that strengths and weaknesses were offsetting or would have little or no impact on contract performance; a marginal rating reflected a proposal that did not clearly meet requirements and had not demonstrated an adequate approach and understanding, and that the proposal had one or more weaknesses that were not offset by strengths. AR, Tab 12, Source Selection Plan, at 20.

⁹ A weakness was defined as a flaw in the proposal that increased the risk of unsuccessful contract performance; a significant weakness was defined as a flaw that appreciably increased the risk of unsuccessful contract performance; and a deficiency was defined as a material failure of a proposal to meet a government requirement or a combination of significant weaknesses in a proposal that increased the risk of unsuccessful contract performance to an unacceptable level. RFP § 00210, Evaluation Factors for Award, ¶ 2.3 (Definitions).

identified six projects they had individually performed (four by Watts Constructors and two by Obayashi Corporation). The SSEB found that one of the six projects was recent and very relevant, and that another recent project was only somewhat relevant. The remaining four projects were not considered to be relevant.¹⁰ Id. at 55-58.

Evaluation of Black's Proposal

Black's proposal was evaluated as marginal under the technical approach factor. The SSEB found that Black's proposal had two strengths, four significant weaknesses, and two weaknesses. The significant weaknesses reflected Black's: (1) proposal of only one site safety and health officer, (2) failure to demonstrate that its proposed quality control manager satisfied a 2-year minimum experience requirement, (3) failure to show that the quality control manager reported to the project superintendent, as required by the RFP, and (4) failure to address repairs and upgrades to the existing Air Force pipeline on the project schedule and in the proposal narrative.¹¹ AR, Tab 7, SSEB Report, at 76, 80-81.

Black's proposal was evaluated as acceptable under the safety factor. The SSEB found that Black's proposal had two strengths and one weakness. The weakness reflected Black's failure to describe how it would evaluate the safety performance of potential subcontractors. Id. at 81, 83.

Black's very good rating under the small business utilization factor reflected the SSEB's judgment that the firm's proposal had three strengths and one weakness. The SSEB assessed as a weakness inaccurate small business designations for some of its proposed subcontractors. Id. at 84-85.

Black's proposal was also rated as marginal under the experience factor. Five of the six projects submitted by Black were for work performed by a proposed subcontractor, Weldin Construction. Id. at 85-88. The SSEB found that Black in its proposal, including a teaming agreement between Black and Weldin, did not adequately explain what major or critical aspects of the project Weldin would

¹⁰ One project did not fall within the 10-year period required under the RFP. AR, Tab 7, SSEB Report, at 56. The other projects did not involve the construction of fuel pipelines and were therefore not relevant. Also, the SSEB found that Watts-Obayashi did not provide enough information for the SSEB to determine if the project was similar in complexity to the RFP work. Id.

¹¹ The weaknesses identified were for exceeding the 70-construction line item limitation on the project schedule and for failing to fully describe Black's management structure for the project. AR, Tab 7, SSEB Report, at 81.

perform;¹² this was assessed as a significant weakness. Additionally, the SSEB noted that all of the projects Black identified were significantly smaller in size than the Sasa pipeline project, which demonstrated a limited depth of experience; this too was assessed as a significant weakness. The SSEB also found that a project performed by Black (with Weldin as a subcontractor) for the installation of marine loading arms at fuel piers in Guam did not involve construction of a fuel pipeline and was therefore not relevant.¹³ Id. at 86, 89.

The Tradeoff Decisions

After completing its technical and price evaluations, the SSEB prepared a best-value recommendation for the agency's source selection authority (SSA). As relevant here, with respect to its comparison of the proposals of Watts-Obayashi with Nova Group, the SSEB found that Nova Group's proposal had the highest overall technical rating and was the fifth lowest priced. In comparison, Watts-Obayashi's proposal had the fourth highest overall technical rating and was lowest priced. Notwithstanding Watts-Obayashi's lower price, the SSEB concluded that the benefits of Nova Group's proposal merited the higher price.

Specifically, the SSEB noted that Nova Group had a greater number of very relevant projects that had high customer satisfaction ratings, which gave the SSEB greater confidence that Nova Group would satisfy the government and successfully meet the requirements of the RFP. The SSEB also determined that Nova Group's management plan and safety approach offered more technical benefits than Watts-Obayashi's. The SSEB noted that, although Watts-Obayashi offered a shorter performance period than Nova Group, it was not clear from Watts-Obayashi's proposal if the protester's proposed quality control manager met the minimum qualification requirements, and Watts-Obayashi appeared to offer only one site safety and health officer where the RFP required two. The SSEB acknowledged

¹² Black's proposal was found only to include very general statements about Weldin's proposed role, and the teaming agreement simply stated: "Both parties agree that Weldin Construction, LLC will be the 'Fuel Pipeline Subcontractor' for the duration of the project and will perform all 'Fuel Piping System' work pursuant to the RFP if awarded to BCC [Black Construction Corp.]" See AR, Tab 7, SSEB Report, at 85-86; see also AR (Black Protest), Tab 4, Black Proposal, Teaming Agreement.

¹³ With respect to the projects performed by Weldin, the SSEB also found that two projects--for upgrading aviation fuel issue point cabinets and upgrading a Coast Guard aviation fueling facility--were not relevant because the work involved little of the scope and complexity of the current project. The three other projects performed by Weldin, which involved fuel pipeline construction, were much smaller in size and of lesser dollar value than the work contemplated by the RFP. AR, Tab 7, SSEB Report, at 86-88.

that both Nova Group and Watts-Obayashi demonstrated good past performance in utilizing small businesses and demonstrated consistent safety records, but concluded that Nova Group offered a more effective technical approach to safety based on their innovative method to utilize their Voluntary Protection Program to foster and ensure employee safety. See id. at 116-18.

With respect to its comparison of the proposals of Black with Nova Group, the SSEB found Nova Group's proposal had the sixth highest overall technical rating, and was the second lowest priced. Recognizing that Black offered a lower price than Nova Group, the SSEB concluded that Nova Group's higher past performance confidence level and technical benefits warranted the additional price.

Specifically, the SSEB noted Black's overall marginal rating, which reflected Black's failure to demonstrate an adequate approach and understanding of the requirements. The SSEB stated that Black's proposal did not consider repairs and upgrades to the existing Air Force pipeline, and did not demonstrate that its quality control manager met the RFP's qualifications. Furthermore, the SSEB noted that five of the six projects submitted for Black were for its proposed subcontractor, and that Black had not adequately explained what major or critical aspects the proposed subcontractor would perform. The SSEB acknowledged Black's consistent safety record and good past performance in utilizing small business concerns, but concluded that the significant weaknesses in Black's proposal were not offset by its strengths. The SSEB found Nova Group's proposal to be a better value, considering Nova Group's outstanding technical approach and larger volume of extensive experience performing very relevant fuel pipeline projects; the SSEB also found that Nova Group's proposal offered substantial confidence of successful performance. See id. at 121-22.

The SSA reviewed and accepted the SSEB's technical and price evaluations and best-value recommendation. AR, Tab 7, Source Selection Decision, at 1-2. As relevant here, the SSA recognized Nova Group's significant technical benefits and extensive recent, relevant experience in fuel pipeline construction. The SSA agreed with the SSEB that Watts-Obayashi's and Black's lower-priced proposals did not outweigh the technical merit of Nova Group's proposal.

Watts-Obayashi's and Black's protests followed debriefings.

DISCUSSION

Watts-Obayashi and Black challenge the agency's evaluation of their proposals, complaining about the weaknesses assessed and adjectival ratings assigned in their respective proposals. The protesters also object to the Navy's best value decision. We have considered all of the protesters' complaints, although we only discuss some of the protesters' arguments, and find that none provide a basis for sustaining the protests.

Challenges to Assessment of Weaknesses

Watts-Obayashi and Black disagree with the weaknesses identified by the Navy in their respective proposals. For example, both Watts-Obayashi and Black argue that the Navy unreasonably assessed as a significant weakness under the technical approach factor the protesters' failure to propose two site safety and health officers. Watts-Obayashi Supp. Protest at 3-4; Black Protest at 10.

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. JSR, Inc., B-405463, Nov. 8, 2011, 2011 CPD ¶ 265 at 4. A protester's mere disagreement with an agency's judgment is not sufficient to establish that an agency acted unreasonably. Trofholz Tech., Inc., B-404101, Jan. 5, 2011, 2011 CPD ¶ 144 at 3-4. Moreover, it is an offeror's responsibility to submit an adequately written proposal that demonstrates the merits of its approach; an offeror runs the risk of having its proposal downgraded or rejected if the proposal is inadequately written. Id. at 4-5.

Here, the record shows that the Navy reasonably found that neither Watts-Obayashi's nor Black's proposals indicated that they would provide two site safety and health officers, as required by the RFP. For example, Watts-Obayashi states in its proposal that the project manager "will work with the Jobsite Superintendent(s), Quality Control Manager, Project Site Safety and Health Officer, Project Engineers, and subcontractors to implement safe and effective construction methods" and that "The Site Safety and Health Office, (SSHO) shall have direct responsibility for the overall management of Watts-Obayashi's safety program for the project." AR, Tab 5, Watts-Obayashi Proposal, at 1, 2 (emphasis added). In addition, as Watts-Obayashi admits, Watts-Obayashi Comments at 26, the firm's organizational chart showed only one site safety and health officer. Thus, Watts-Obayashi's proposal indicated that the firm would provide only one site safety and health officer, contrary to the RFP requirements. Although the protester argues it was aware that two different sites were covered by the contract and therefore it "presumably intended to have a [site safety and health officer] at each site,"¹⁴ see id., it was Watts-Obayashi's responsibility to submit an adequately written proposal.

Likewise, Black provided an organizational chart that identified a single "Site Safety and Health Officer (SSHO)" and its proposal states "We will appoint a full time Site

¹⁴ Watts-Obayashi also argues that the omission of a site safety and health officer "hardly rises to the level of a significant weakness." Watts-Obayashi Comments at 26. This disagreement with the agency's judgment does not demonstrate that the agency's judgment was unreasonable.

Safety and Health Officer (SSHO) with training and experience germane to trenching and fuels projects.” See AR (Black Protest), Tab 4, Black Proposal, at 5; see also Organizational Chart. Black admits that its organizational chart does not identify two site safety and health officers, but argues that its promise to implement a Health and Safety Program in accordance with the RFP satisfies the requirement to identify two site safety and health officers. Black Protest at 10. We disagree. Blanket statements of compliance are insufficient to establish compliance with solicitation requirements--especially when detailed portions of the proposal, like Black’s organizational chart, show otherwise. See National Shower Express, Inc.; Rickaby Fire Support, B-293970, B-293970.2, July 15, 2004, 2004 CPD ¶ 140 at 4-5.

Watts-Obayashi and Black also challenge the Navy’s assessment of a significant weakness in their proposals under the technical approach factor for failing to demonstrate that their proposed quality control managers satisfied the solicitation’s experience requirements. Watts-Obayashi Supp. Protest at 4; Black Protest at 11. Here too, the record supports the reasonableness of the agency’s judgment. With respect to the significant weakness assessed in Watts-Obayashi’s proposal, Watts-Obayashi admits that its proposed quality control manager’s “resume does not explicitly state that he has ten years combined experience in the relevant positions on similar projects.” Watts-Obayashi argues, however, that this individual had “31 years’ experience in the field.” Watts-Obayashi Comments at 26. Contrary to Watts-Obayashi’s arguments, the resume for its proposed quality control manager’s states that this individual had “6 years, 7 months combined experience as a Construction CQC [Contractor Quality Control Manager] in construction of the installation of Fueling Systems for completed systems.” AR, Tab 5, Watts-Obayashi Proposal, Attachment, Quality Control Manager Resume. We find that the Navy reasonably relied upon this express statement of experience in concluding that Watts-Obayashi had not demonstrated that its proposed quality control manager met the RFP’s requirement of a minimum of 10 years’ combined experience as a project superintendent, quality control manager, project manager, project engineer, or construction manager on similar size and type construction contracts.

With respect to the significant weakness assessed in Black’s proposal for its proposed quality control manager, Black argues that this individual had been Black’s quality control manager since 2008, and that the Navy was aware of his recent experience as quality control manager on two projects at Andersen Air Force Base in Guam. Black Protest at 11. The Navy explains that, although Black’s proposal mentions the two projects at Andersen Air Force Base for the recent experience of its proposed quality control manager, the Navy states that Black did not provide time frames for when he served as quality control manager and did not provide enough information to determine similarity in size and type of construction project. AR (Black Protest) at 8. Black has not shown why the Navy should have been aware that this individual had been Black’s quality control manager since 2008, particularly given that no resume was provided for him in Black’s proposal.

Again, it is the offeror's responsibility to provide, within the four corners of its proposal, the information the agency needs to properly evaluate the offeror's proposed approach. See Leader Commc'ns Inc., B-298734, B-298734.2, Dec. 7, 2006, 2006 CPD ¶ 192 at 7; Wyle Labs., Inc., B-260815.2, Sept. 11, 1995, 95-2 CPD ¶ 187 at 5.

Black also objects to the significant weakness assessed under the technical approach factor where Black's organizational chart showed the quality control manager reporting to the project manager, rather than to the project superintendent as required by the RFP. Black contends that the agency misread Black's organizational chart, arguing that the chart's dotted line indicated only a line of communication. Black Protest at 10. Although Black's organizational chart contains both dotted and straight lines, Black admits that its proposal did not provide a key to deciphering the meaning of the straight and dotted lines on the chart. Black has simply not identified any place in its proposal where it affirmatively demonstrated that the quality control manager would report to the project superintendent, as required.¹⁵

Black also challenges the agency's assessment of two significant weaknesses in its proposal under the experience factor. Black first complains that the Navy did not consider the projects performed by its subcontractor in evaluating the offeror's experience. Black contends that it adequately explained the meaningful role that its subcontractor would have in performance of the contract. Black Protest at 13.

Here, as noted above, the RFP specifically informed offerors that to the extent an offeror wished to rely upon the experience of a subcontractor the offeror must "provide an explanation of the meaningful involvement that the subcontractor [would] have in performance of this contract and submit evidence of a binding teaming agreement or other contractual agreement in the technical proposal cover letter which creates legal responsibility on the part of the subcontractor." RFP § 00210, Evaluation Factors for Award, ¶ 2.3 (Factor 4, Recent Relevant Experience). Although Black generally stated that Weldin would be its contractor on this contract, Black did not provide an explanation showing how Weldin would be meaningfully involved in performance of the contract or otherwise establish what work Weldin would perform. Thus, we conclude that the Navy's assignment of this significant weakness was not unreasonable.

¹⁵ Black argues that the narrative in its proposal indicates that the quality control manager would not report to the project manager. We find from our review of Black's proposal that Black did not state that its quality control manager would not report to the project manager, and that Black did not otherwise identify to whom the quality control manager would report. See AR (Black Protest), Tab 4, Black Proposal, at 2.

Black also complains that the Navy unfairly placed too much emphasis on the dollar value of the projects, rather than the length and phases of the project, in determining the relevance of its projects. Black Protest at 13. There is also no merit to Black's complaint. The RFP advised offerors that the agency's evaluation of recent relevant experience would consider the similarity in scope, size, and complexity of the prior contracts to the RFP's project. Id. To accomplish this, the RFP instructed offerors use a Construction Experience Project Data Sheet, which specifically required offerors to provide the award amount and final price for each contract submitted. Id.; exhib. D, Construction Experience Project Data Sheet. Here, Black identified projects ranging in value from \$0.9 million to \$4.5 million, while the estimated value of the contract here is \$50 million. As a result, we see nothing unreasonable about the Navy's conclusion that these projects were not similar in size, scope, and complexity to the project at issue here.

Challenges to the Adjectival Ratings

Watts-Obayashi and Black also challenge the Navy's assignment of adjectival ratings to their proposals under various evaluation factors, arguing that their proposals should have received higher ratings. For example, Watts-Obayashi challenges its "acceptable" rating under the safety factor, arguing that its rating should have been higher given that one of the joint venture partners demonstrated a very low to low risk safety record, and the Navy otherwise identified no weaknesses or deficiencies. Watts-Obayashi Supp. Protest at 4-6. Watts-Obayashi complains that it was downgraded under this factor because its Japanese joint venture partner did not have EMR or DART rates. Watts-Obayashi Comments at 28.

It is well-established that ratings, be they numerical, adjectival, or color, are merely guides for intelligent decision making in the procurement process. One Largo Metro LLC; Metroview Dev. Holdings, LLC; King Farm Assocs., LLC, B-404896 et al., June 20, 2011, 2011 CPD ¶ 128 at 14. Moreover, there is no legal requirement that an agency must award the highest possible rating, or the maximum point score, under an evaluation factor simply because the proposal contains strengths and/or is not evaluated as having any weaknesses. DynCorp Int'l LLC; Fluor SOSi Diplomatic Support Servs., LLC; Kellogg Brown & Root Servs., Inc., B-408554.5, et al., Dec. 9, 2013, 2014 CPD ¶ 6 at 12.

The Navy responds that Watts-Obayashi's proposal was assessed a strength for Watts Constructors' low to very low risk EMR, but that Watts-Obayashi provided no information to demonstrate that the other joint venture partner, Obayashi Corporation, had a history of safe work practices. AR at 23. The agency concluded that Watts Constructors' EMR and DART information, along with Watts-Obayashi's technical approach to safety, demonstrated an adequate approach and understanding of the RFP requirements that warranted an acceptable rating. Id.

As noted above, the RFP instructed offerors to submit EMR and DART rates for each member of a partnership or joint venture, and to provide an explanation if no EMR or DART was available. The RFP also required offerors to describe their plan to evaluate the safety performance of potential subcontractors, and methods to ensure and monitor safe work practices at all subcontractor levels. RFP § 00210, Evaluation Factors for Award, ¶ 2.3 (Factor 2, Safety). Here, Watts-Obayashi submitted EMR and DART rates for only one joint venture partner. Although Watts-Obayashi explained why Obayashi did not have EMR and DART rates, it did not provide any information to establish the Obayashi Corporation's safety record. See AR, Tab 5, Watts-Obayashi Proposal, Factor 2--Safety, at 1. Moreover, the SSEB concluded that Watts-Obayashi's safety plan provided no innovative methods. AR, Tab 7, SSEB Report, at 51. As a result, we conclude that Watts-Obayashi has not shown that the Navy unreasonably found the firm's proposal to be acceptable under the safety factor.

Watts-Obayashi also objects to the evaluation of its proposals as acceptable under the experience factor.¹⁶ Watts-Obayashi argues that it should have received a higher rating, because the two projects the Navy determined were very relevant and somewhat relevant, and involved similar scope and complexity to the RFP. Watts-Obayashi also argues that the Navy otherwise identified two strengths and no weaknesses or deficiencies under this factor.¹⁷ Watts-Obayashi Supp. Protest at 9.

¹⁶ Black also objects to the Navy's assignment of a marginal rating to its proposal under the technical approach and experience factors. Black Protest at 7. In this regard, Black's arguments are grounded in its challenges to the weaknesses and significant weaknesses the Navy identified in its proposal. As discussed above, while we examined all of Black's challenges to its proposal weaknesses and significant weaknesses, we found no basis to sustain those protest grounds. Accordingly, we conclude that Black's objections in this regard are without merit.

¹⁷ In its comments, Watts-Obayashi for the first time challenges the Navy's evaluation that four of its projects were not relevant under the experience factor. Watts-Obayashi Comments at 21-24. This is untimely, as Watts-Obayashi knew from its debriefing that the Navy considered only two of its projects to be relevant. See Watts-Obayashi Protest, exhib. B, Post-Award Debriefing, Dec. 27, 2013, at 33. Although Watts-Obayashi contends that these protest grounds are encompassed in its original, timely supplemental protest, we disagree. Prior to receipt of the agency's report, Watts-Obayashi filed a supplemental protest in which it argued, as noted above, that because the Navy had found two of its projects to be very relevant and somewhat relevant with similar scope and complexity it should have received a higher rating under the experience factor. Watts-Obayashi Supp. Protest at 9. Watts-Obayashi did not argue that four of its submitted projects were unreasonably found to be not relevant. Where a protester initially files a timely protest and supplements it with new and independent grounds of protest, the new allegations must independently satisfy these timeliness requirements; our

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As noted above, there is no requirement that an agency must award the highest possible rating under an evaluation factor simply because the proposal contains strengths and/or is not evaluated as having any weaknesses. DynCorp Int'l LLC; Fluor SOSi Diplomatic Support Servs., LLC; Kellogg Brown & Root Servs., Inc., supra. The SSEB recognized in its comparative analysis that one of Watts-Obayashi's projects was recent and very relevant, and had received above average client satisfaction ratings, and another of the protester's projects that was considered somewhat relevant had received an exceptional client satisfaction rating. AR, Tab 7, SSEB Report, at 117. Although Watts-Obayashi disagrees with the agency's judgment that its experience was merely acceptable, this disagreement does not show that the agency acted unreasonably.¹⁸

Challenges to the Tradeoff Decision

Finally, Watts-Obayashi raises a number of arguments challenging the Navy's tradeoff decision.¹⁹ More specifically, Watts-Obayashi argues that the Navy failed to meaningfully consider the difference between Watts-Obayashi's and Nova Group's proposals, including Watts-Obayashi's "very significant" price advantage, and failed to look behind the adjectival ratings. Watts-Obayashi Comments at 12-18.

Where, as here, a solicitation provides for award on a best value basis, the decision as to the relative technical merit of the offers must be based upon a comparative consideration of the technical differences of the proposals. See Systems Research

(...continued)

Regulations do not contemplate the unwarranted piecemeal presentation of protest issues. Litton Sys., Inc., Amecom Div., B-275807.2, Apr. 16, 1997, 97-1 CPD ¶ 170 at 4 n.1. We similarly find Watts-Obayashi's challenges to the Navy's determination that the four projects were not relevant under the past performance factor to be untimely.

¹⁸ Watts-Obayashi raised similar arguments with respect to its satisfactory confidence rating under the past performance factor, which was based on the same projects evaluated under the recent relevant experience factor. Watts-Obayashi Protest at 4. Although Watts-Obayashi believes that it should have received a higher rating, this disagreement with the agency's judgment provides no basis to question the agency's evaluation.

¹⁹ Black also contends that the Navy's tradeoff decision was unreasonable. Black's objections, however, are hinged upon its challenge to the agency's evaluation and rating of its proposal. Because, as explained above, we found that these challenges to the evaluation of its proposal had no merit, they provide no basis to question the agency's best value decision.

& Applications Corp.; Booz Allen Hamilton, Inc., B-299818 et al., Sept. 6, 2007, 2008 CPD ¶ 28 at 24. A protester's mere disagreement with the agency's determination as to the relative merits of competing proposals, or disagreement with its judgment as to which proposal offers the best value to the agency does not establish that the source selection decision was unreasonable. King Farm Assocs., LLC; One Largo Metro LLC; Metroview Dev. Holdings, LLC, B-404896.10 et al., Dec. 5, 2011, 2012 CPD ¶ 6 at 17.

The record here shows that the Navy's selection decision was reasonable. The SSEB's best-value recommendation to the SSA was supported by an 18-page comparative analysis of all six offerors' proposals. See AR, Tab 7, SSEB Report, at 114-33. In considering the relative merits of Watts-Obayashi's and Nova Group's proposals, the SSEB acknowledged Watts-Obayashi's much lower price, but concluded that Nova Group's greater number of highly relevant projects and high client satisfaction ratings gave the SSEB greater confidence that Nova Group would successfully meet the requirements of the RFP.²⁰ In addition, the SSEB looked behind the adjectival ratings, recognizing that both Nova Group and Watts-Obayashi demonstrated good past performance in utilizing small businesses and demonstrated consistent safety records, but that Nova Group offered more technical benefits in its management plan and safety approach than Watts-Obayashi. In this regard, the SSEB noted that although Watts-Obayashi offered a shorter performance period than Nova Group, it was not clear from Watts-Obayashi's proposal if the proposed quality control manager met the minimum qualification requirements, and Watts-Obayashi appeared to offer only one site safety and health officer where the RFP required two. The SSA specifically considered the SSEB's findings and recommendation in determining that Nova Group's technical merit outweighed the protesters' lower prices. Although the protesters disagree with the

²⁰ Watts-Obayashi argues that the agency's tradeoff decision did not consider the difference in its and Nova Group's prices after considering the solicitation price preference for HUBZone small business concerns. Watts-Obayashi Comments at 14-15. This preference is applied for the benefit of HUBZone concerns. See Federal Acquisition Regulation § 19.1307(b). As noted by the Navy, however, neither Watts-Obayashi nor Nova Group is a HUBZone concern; thus the HUBZone price preference had no application here.

agency's judgment, this does not demonstrate that the agency's selection decision was unreasonable.

The protests are denied.

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