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**United States Government Accountability Office  
Washington, DC 20548**

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## **Decision**

**Matter of:** The MIL Corporation

**File:** B-297508; B-297508.2

**Date:** January 26, 2006

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### **DIGEST**

1. Protest issue raised subsequent to a post-award debriefing provided to a vendor in a Federal Supply Schedule procurement is untimely where it was filed more than 10 days after the basis of protest was known; since the procurement was not conducted on the basis of competitive proposals, the timeliness rules based on protests which challenge a procurement conducted on the basis of competitive proposals under which a debriefing is requested and required are not applicable.
2. Protest challenging the evaluation of vendors' quotations is denied where the record establishes that the agency's evaluation was reasonable and in accord with the stated evaluation criteria.
3. Protest alleging that, in its evaluation of the protester's quotation, the agency unreasonably ignored information that was "simply too close at hand" (but not contained in the protester's quotation) is denied where the protester fails to demonstrate that the information in question was known to the individuals involved in the evaluation of the quotation.
4. Protest that agency improperly changed the stated basis for award from "best value" to low priced/technically acceptable is denied where the record reflects that the agency found the quotations of the awardee and protester to be, at best, technically equal and made award to the lower-priced vendor; the fact that no price/technical tradeoff was required does not negate the fact that the agency properly adhered to the best-value award basis.

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## DECISION

The MIL Corporation (MIL) protests the issuance of a task order to the Anteon Corporation under request for quotations (RFQ) No. N00421-05-T-0229, issued by the Naval Air Warfare Center Aircraft Division (NAWCAD), Naval Air Systems Command, Department of the Navy, for information technology (IT) help-desk support services. MIL argues that Anteon had impermissible organizational conflicts of interest, that the agency's evaluation of vendors' quotations was unreasonable, and that the resulting award decision was improper.

We deny the protests.

## BACKGROUND

The RFQ, issued on September 8, 2005, to 12 vendors holding General Services Administration (GSA) Federal Supply Schedule (FSS) contracts for IT services, contemplated the award of a time-and-materials task order for a 1-year period of performance. The solicitation included a statement of work (SOW), a summary of the anticipated labor hours and labor categories required, instructions to vendors regarding the submission of quotations, and the evaluation factors for award. The RFQ established four evaluation factors of approximately equal importance: management plan/staffing; past performance; technical approach; and price.<sup>1</sup> RFQ, Evaluation Criteria, at 1. Award was to be made to the vendor whose quotation was determined to be the "best value" to the government based upon an integrated assessment of all evaluation factors. RFQ, Cover Letter, at 1.

Five vendors, including Anteon and MIL, the incumbent, submitted quotations by the September 19 due date. A technical evaluation panel (TEP) consisting of two agency employees evaluated vendors' quotations under the nonprice evaluation factors using an adjectival rating system: outstanding; highly satisfactory; satisfactory; marginal; and unsatisfactory. The TEP did not develop consensus evaluation ratings for each vendor's quotation; rather, each evaluator separately submitted his/her own evaluation ratings, including worksheets and narrative comments, to the contracting officer. The evaluation ratings (from each evaluator) and prices of Anteon, MIL, and Vendor C were as follows:

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<sup>1</sup> As detailed below, each of the nonprice evaluation factors consisted of multiple subfactors.

	<b>Factor</b>				
	Management Plan	Past Performance	Technical Approach	Overall	Price
<b>Anteon</b>	Outstanding	Highly Satisfactory	Outstanding	Outstanding	\$2,428,841
	Highly Satisfactory	Outstanding	Outstanding	Outstanding	
<b>MIL</b>	Outstanding	Highly Satisfactory	Outstanding	Outstanding	\$2,517,353
	Highly Satisfactory	Highly Satisfactory	Outstanding	Highly Satisfactory	
<b>Vendor C</b>	Outstanding	Highly Satisfactory	Highly Satisfactory	Highly Satisfactory	\$2,315,432
	Highly Satisfactory	Highly Satisfactory	Satisfactory	Highly Satisfactory	

Agency Report (AR), Tab R, Technical Evaluation of MIL, at 3, 13; Tab S, Technical Evaluation of Anteon, at 3, 13; Tab T, Technical Evaluation of Vendor C, at 3, 13; Tab W, Source Selection Decision at 1.<sup>2</sup>

After having reviewed the evaluation ratings and findings, the contracting officer determined that Anteon's quotation represented the best value to the government. Id., Tab W, Source Selection Decision, at 2; Tab X, Source Selection Decision Addendum.

The agency provided MIL with notice that Anteon had been selected for award on September 29, and MIL submitted a written request for a debriefing on October 3. The Navy provided MIL with a debriefing on October 20, explaining MIL's evaluation ratings and the rationale for the agency's award decision.

MIL filed its initial protest with our Office on October 24 after its debriefing, and supplemented its protest after receiving the agency report on the protest. MIL raises five bases of protest. First, the protester argues that Anteon had significant organizational conflicts of interest which the Navy failed to recognize and/or take into account in its evaluation of quotations. Second, MIL argues that the Navy's evaluation of vendors' quotations was unreasonable insofar as the agency ignored the higher quality of the staff which MIL proposed. Third, MIL argues that the agency's evaluation of its past performance was unreasonable. Fourth, MIL argues that the agency improperly failed to take risk into account in its evaluation of

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<sup>2</sup> The quotations of the remaining two vendors were both higher-priced and lower technically rated than those of MIL, Anteon, and Vendor C. AR, Tab V, Summary of Evaluation Ratings.

vendors' quotations. Lastly, MIL contends that the agency's source selection decision was inconsistent with the solicitation and insufficiently documented.<sup>3</sup>

## DISCUSSION

When an agency conducts a formal competition under the FSS program for award of a task order contract, we will review the agency's actions to ensure that the evaluation was reasonable and consistent with the terms of the solicitation. WorldWide Language Res., Inc., B-297210 *et al.*, Nov. 28, 2005, 2005 CPD ¶ 211 at 3; COMARK Fed. Sys., B-278343, B-278343.2, Jan. 20, 1998, 98-1 CPD ¶ 34 at 4-5. Based on our review of the record here, we find no basis to question the agency's award decision.

### Organizational Conflicts of Interest

MIL first protests that Anteon had significant, material organizational conflicts of interest which the vendor failed to disclose and which the Navy failed to identify or take into account in its evaluation of quotations. Specifically, MIL contends that Anteon is presently performing a separate program management services contract for NAWCAD. MIL alleges that as the program management services contractor, Anteon received non-public information concerning MIL's technical performance and costs under the incumbent IT help-desk services contract. MIL also asserts that it is likely that Anteon was in possession of additional material, non-public source selection information to which no other vendor, including MIL, had access. Lastly, MIL alleges that Anteon, as the program management services contractor, will now be in the position of reviewing its own submissions under the IT help-desk services contract. MIL argues that because the Navy failed to identify, consider, and evaluate these organizational conflicts of interest, the award to Anteon was improper.

The agency argues that MIL's protest regarding Anteon's alleged organizational conflicts of interest is untimely, as the protester knew of this basis for protest as of the September 29 award notification date. In support of its position, the agency contends that MIL, as the incumbent IT help-desk services contractor, was fully aware of Anteon's duties and responsibilities under the program management services contract, which provided MIL with the underlying factual basis for the

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<sup>3</sup> MIL also protested that the agency's evaluation of vendors' quotations was unreasonable insofar as the evaluation process was "chaotic" (e.g., the evaluation team was organized at the last minute, and minimal training, if any, was provided to the evaluators). Allegations, like these, of procedural defects do not provide a valid basis of protest. Moreover, MIL has not demonstrated how it was prejudiced as a result of the alleged procedural defects. See McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; Statistica, Inc., v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996).

organizational conflict of interest allegations it now raises. Further, the agency asserts that the organizational conflict of interest issues were not raised or even mentioned at MIL's debriefing. The Navy contends that because MIL knew of its basis for protest on September 29 but did not file its protest with our Office until October 24, the issue is untimely.

Our Bid Protest Regulations contain strict rules for the timely submission of protests. These timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without disrupting or delaying the procurement process. Peacock, Myers & Adams, B-279327, Mar. 24, 1998, 98-1 CPD ¶ 94 at 3-4; Professional Rehab. Consultants, Inc., B-275871, Feb. 28, 1997, 97-1 CPD ¶ 94 at 2. Under these rules, a protest such as MIL's, based on other than alleged improprieties in a solicitation, must be filed not later than 10 days after the protester knew or should have known of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (2005). An exception to this general rule is a protest that challenges "a procurement conducted on the basis of competitive proposals under which a debriefing is requested and, when requested, is required." Id. In such cases, with respect to any protest basis which is known or should have been known either before or as a result of the debriefing, the protest must be filed not later than 10 days after the date on which the debriefing is held. Id.

Our determination of the timeliness of MIL's organizational conflict of interest issues therefore involves a twofold analysis: (1) determining when MIL knew, or should have known, its basis for protest here; and (2) determining whether MIL's protest involves a procurement conducted on the basis of competitive proposals under which a debriefing was required.

We find that MIL knew or should have known this basis for protest as of the date it received notice of the award to Anteon, September 29. As the incumbent IT help-desk services contractor, MIL was fully aware of Anteon's duties and responsibilities as the program management services contractor with the Navy; it was this familiarity that provided MIL with the underlying factual basis for its assertions that Anteon both had superior access to information during the solicitation process, and would suffer from impaired objectivity during contract performance. Further, the agency asserts--and MIL does not deny--that the organizational conflict of interest issues here were not raised or even mentioned at the debriefing provided to MIL. While the protester now argues that "it was at the debriefing that MIL learned that the Navy made its award to an offeror with an apparent [organizational conflict of interest] without evaluating the [organizational conflict of interest] and without imposing any appropriate mitigation," MIL Response to Agency Dismissal Request, Nov. 7, 2005, at 5, we fail to see how MIL could first have become aware of this as a result of the debriefing when it asked no questions and did not even raise the issue. Rather, we find that the facts which provided MIL with its basis of protest here were known to it as of the September 29 award notification date. Accordingly, since MIL's protest was not filed until October 24, we find that MIL did not protest the organizational conflict

of interest issue within 10 days of when the protester knew or should have known of the basis of protest.

We also find that the exception to our timeliness rules allowing protests to be filed within 10 days of a debriefing does not apply here. As noted above, the exception extends to protests involving procurements where a debriefing is required by law. Specifically, under 10 U.S.C. § 2305(b)(5)(A) (2000), an agency is required to debrief an unsuccessful offeror who timely requests a debriefing in cases where “a contract is awarded . . . on the basis of competitive proposals.” Here, we conclude that the procurement which is the subject of the protests was not one conducted on the basis of competitive proposals.

The term “competitive proposals” is not defined by our Bid Protest Regulations, nor is it defined by statute or regulation.<sup>4</sup> However, we have previously determined that the use of negotiated procedures in accordance with Federal Acquisition Regulation (FAR) Part 15 and as evidenced by the issuance of a request for proposals, constitutes a procurement conducted on the basis of competitive proposals. See Peacock, Myers & Adams, supra, at 1; Minotaur Eng’g, B-276843, May 22, 1997, 97-1 CPD ¶ 194 at 2-3 (equating a negotiated procurement with a procurement conducted on the basis of competitive proposals); Professional Rehab. Consultants, Inc., supra, at 2 (finding the procurement was conducted on the basis of competitive proposals when agency employed a request for proposals and used FAR Part 15 procedures); Automated Med. Prods. Corp., B-275835, Feb. 3, 1997, 97-1 CPD ¶ 52; Comfort Inn South, B-270819.2, May 14, 1996, 96-1 CPD ¶ 225 (equating the term “competitive proposals” as set forth in 10 U.S.C. § 2304(a)(2)(B) with negotiated procedures).

Here, the procurement was not conducted pursuant to the negotiated procedures of FAR Part 15, nor did it involve the issuance of a request for proposals. Rather, the procurement here was conducted under the FSS program, pursuant to the procedures set forth in FAR Subpart 8.4 and using a request for quotations. In this regard, in a recent case involving similar facts, Systems Plus, Inc. v. United States, 68 Fed. Cl. 206, 209-210 (2005), the Court of Federal Claims concluded that a procurement under the FSS program pursuant to FAR Subpart 8.4 was not conducted on the basis of competitive proposals. The Court found that although FSS program procurements may involve the use of enhanced competitive procedures (*i.e.*, the comparison of technical approaches and technical qualifications of vendors, the consideration of factors other than price), the term “competitive proposals” was a term of art which did not extend to FSS procurements. *Id.* at 210. We agree. Because here the procurement was conducted pursuant to FAR Subpart 8.4, rather

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<sup>4</sup> We note, however, that Federal Acquisition Regulation (FAR) § 6.401(b), “Competitive Proposals,” begins with the reference, “See Part 15 for procedures.”

than FAR Part 15, the procurement was not one conducted on the basis of competitive proposals.<sup>5</sup>

In light of the fact that MIL did not raise the organizational conflict of interest issues within 10 days of when it knew or should have known of its basis for protest, and as the exception to our general rule allowing filing after a debriefing does not apply here, we find MIL's protest of these issues to be untimely.

### Evaluation of Proposed Staffing

MIL also challenges the agency's evaluation of vendors' quotations as to the quality of staffing proposed. Specifically, the protester argues that it proposed extremely experienced key personnel, but that the Navy failed to properly take their qualifications into account in the evaluation of quotations. MIL also argues that the agency's failure to properly recognize the high quality of the staffing it proposed was prejudicial notwithstanding the fact that MIL received an overall technical rating of outstanding: according to MIL, the qualifications of its proposed personnel should have been expressly recognized as a strength (and thereby expressly taken into account in the contracting officer's best-value determination). Lastly, MIL argues that the Navy's rating of Anteon as to staffing was unreasonably high, because it was simply not possible that Anteon's proposed staff could be equal to that proposed by incumbent MIL.

In reviewing an agency's evaluation, we will not reevaluate offerors' submissions; instead, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and procurement statutes and regulations. Urban-Meridian Joint Venture, B-287168, B-287168.2, May 7, 2001, 2001 CPD ¶ 91 at 2. An offeror's mere disagreement with the agency's evaluation is not sufficient to render the evaluation unreasonable. Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7.

As set forth above, the solicitation set forth three technical evaluation factors--management plan/staffing, past performance, and technical approach. Both the management plan/staffing factor and the technical approach factor contained subfactors which related to a vendor's proposed staffing. Under the management plan/staffing factor, the third subfactor stated, "The management plan clearly reflects ability to staff potential efforts with appropriate personnel and ability to recruit

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<sup>5</sup> In support of its position that the debriefing here was required by law, MIL argues that it requested a "required debriefing," pursuant to FAR § 15.506, and that the agency did not disagree with MIL's use of that term. We find this argument wholly unpersuasive, since whether a debriefing is in fact a required one does not turn on a protester's characterization.

successfully when necessary.”<sup>6</sup> RFQ, Evaluation Criteria, at 1. Additionally, under the technical approach factor, the first subfactor stated, “The offeror’s minimum personnel qualifications for applicable labor categories are adequate for performance of tasks under the subject contract.”<sup>7</sup> Id. Importantly, neither the solicitation’s stated evaluation criteria nor the SOW required the identification of any key personnel.

In the management plan/staffing section of its quotation, MIL stated that it would accomplish the IT help-desk services requirement by using its current, full-time employees.<sup>8</sup> AR, Tab K, MIL Quotation, at 3. MIL also stated that it was committing 35 personnel to the effort, and designated all its personnel as key staff. Id. at 1. MIL’s quotation also included a table setting forth each of its proposed personnel, the relevant labor category, the certifications and years of experience for the staff proposed, and each individual’s experience relative to the various SOW tasks. MIL’s technical proposal did not specifically address the vendor’s minimum personnel qualifications.<sup>9</sup>

The TEP evaluators both rated MIL’s quotation as outstanding under the staffing ability subfactor; both evaluators also rated MIL’s quotation as outstanding under the minimum qualifications subfactor. AR, Tab R, Technical Evaluation of MIL at 1, 11. Further, in the comments which accompanied the TEP chairman’s rating of MIL’s quotation as outstanding under the management plan/staffing factor, the lead

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<sup>6</sup> A narrative which accompanied the evaluation factors expanded upon the staffing ability subfactor, stating that a vendor’s staffing plan “must describe the offeror’s proposed recruiting/hiring program to assure that efforts will be staffed with qualified personnel over the life of the contract.” RFQ, Evaluation Criteria, at 3.

<sup>7</sup> Similarly, with regard to the minimum qualifications subfactor, the solicitation’s evaluation narrative stated that “the offeror must identify, by technical functional area of the synopsis/SOW, labor categories under their GSA Schedules appropriate for tasks in that area, and the minimum personnel qualifications for each.” RFQ, Evaluation Criteria, at 4.

<sup>8</sup> MIL also described its plan to recruit from outside of its incumbent staff of employees if it became necessary or desirable to do so. AR, Tab K, MIL Quotation, at 4.

<sup>9</sup> While MIL’s technical proposal stated that “a summary of our minimum personnel qualifications was presented earlier, by task, under . . . Personnel Matrix and Summaries,” AR, Tab K, MIL Quotation, at 14, a review of that portion of MIL’s quotation indicates only the actual experience of the individuals proposed, and not what the minimum personnel qualifications identified by MIL were. Id. at 6.



evaluator stated, “Impressive management plan that thoroughly addresses all criteria. Appropriate staff certifications.”<sup>10</sup> *Id.* at 4.

Contrary to MIL’s arguments, we find that the agency did not ignore the quality of the staffing that MIL had proposed when evaluating the firm’s quotation. Rather, the record reflects that the agency properly considered MIL’s proposed staffing under both staffing-related subfactors, and reasonably rated MIL’s quotation as outstanding under both subfactors.<sup>11</sup>

MIL nonetheless argues that its decision to propose its extremely experienced incumbent workforce, and the decision to identify key personnel for all staffing positions, should have been given special consideration or additional evaluation credit. As a corollary to its position in this regard, MIL argues that the Navy’s rating of Anteon as equal to MIL under the staffing criteria was unreasonably high because Anteon could not possibly propose a staff that was equal to that of incumbent MIL.

Here, the solicitation stated that the contracting agency would evaluate vendors on their ability to staff the requirement with appropriate, qualified personnel over the life of the contract, RFQ, Evaluation Criteria, at 2, and as set forth above, the agency reasonably considered the high quality of MIL’s proposed staffing when it rated the firm’s quotation as outstanding under both staffing-related subfactors. The RFQ did not specify that a vendor had to identify any key personnel, nor did the solicitation provide that designating individuals as key personnel or proposing the incumbent workforce would be given special recognition or consideration.<sup>12</sup> Accordingly, we find nothing unreasonable about the agency’s decision not to afford MIL an

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<sup>10</sup> Both TEP members also rated Anteon’s quotation as outstanding under the staffing ability and minimum qualifications subfactors. AR, Tab S, Technical Evaluation of Anteon, at 1, 11. MIL’s protest points to no specific aspects of Anteon’s quotation in challenging the agency’s evaluation here, other than asserting that MIL’s staffing had to be of a higher quality.

<sup>11</sup> If anything, the evaluation of MIL as outstanding under the minimum qualifications subfactor was arguably too high, as MIL’s quotation did not specifically set forth what the vendor’s minimum personnel qualification were for the various labor categories.

<sup>12</sup> Similarly, with regard to MIL’s protest that the Navy’s evaluation was unreasonable because the agency never separately evaluated the risk inherent in each vendor’s quotation, we find that, contrary to the protester’s characterization of the RFQ, risk was not an explicit evaluation criterion that the agency had to take into account (the word “risk” does not appear in any evaluation factor), and the agency’s decision not to separately evaluate risk was neither unreasonable nor inconsistent with the solicitation’s stated evaluation criteria.

evaluation preference or additional credit with regard to the evaluation of MIL's proposed staffing here.<sup>13</sup> See Weber Cafeteria Servs., Inc., B-290085.2, June 17, 2002, 2002 CPD ¶ 99 at 4-5.

### Evaluation of MIL's Past Performance

MIL also protests that the agency's evaluation of its past performance was unreasonable. Specifically, MIL argues that the Navy improperly identified as past performance weaknesses that the firm needed to be more specific in addressing the issues of flexibility and timeliness. MIL argues that its quotation did address flexibility and timely performance, even if it did not repeatedly use those exact words in the description of the prior contracts performed.

Where a solicitation requires the evaluation of offerors' past performance, we will examine an agency's evaluation only to ensure that it was reasonable and consistent with the solicitation's evaluation criteria, since determining the relative merits of offerors' past performance information is primarily a matter within the contracting agency's discretion. Hanley Indus., Inc., B-295318, Feb. 2, 2005, 2005 CPD ¶ 20 at 4. A protester's mere disagreement with the agency's judgment is not sufficient to establish that the agency acted unreasonably. Birdwell Bros. Painting & Refinishing, B-285035, July 5, 2000, 2000 CPD ¶ 129 at 5. Our review of the record leads us to conclude that the agency's evaluation of the vendors' past performance here was both reasonable and consistent with the RFP's evaluation terms.

The RFQ set forth three subfactors within the past performance evaluation factor. Relevant to the protest here, the second and third subfactors stated:

The offeror's corporate history (subcontractors and partners included) clearly demonstrates a customer oriented approach including examples of flexibility and responsiveness to customers, and

The offeror's corporate history (subcontractors and partners included) reflects a consistency of on-time completion of tasks. For any tasks not completed as originally projected or committed to, adequate explanation was provided.

RFQ, Evaluation Criteria, at 1.

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<sup>13</sup> Moreover, to the extent that MIL is protesting that the RFQ should have provided for special consideration for identifying key personnel or proposing the incumbent workforce, its protest is untimely since it concerns an alleged impropriety apparent from the face of the solicitation and was not raised prior to the closing time for submission of quotations. 4 C.F.R. § 21.2(a)(1).

In its quotation, MIL addressed past performance by first stating that it had extensive experience providing the services required here, and a corporate history that, among other things, “clearly demonstrates a customer oriented approach including numerous examples of flexibility and responsiveness to customers,” and “reflects a consistency of on-time completion of tasks.” AR, Tab K, MIL Quotation, at 11. The vendor’s quotation then set forth two specific past performance references in narrative format—its incumbent contract with NAWCAD for the required IT help-desk services, as well as its current central travel agency contract with the same agency. MIL’s quotation did not provide any specific examples of flexibility and responsiveness to customers for either reference, nor did MIL address on-time completion of tasks for either reference.

MIL was rated as satisfactory under both the flexibility and timeliness subfactors by the TEP chairman, while the second agency evaluator rated MIL as highly satisfactory under the flexibility subfactor and as satisfactory under the timeliness subfactor. In his evaluation summary of MIL’s past performance, the TEP chairman also stated, “Past performance receives a rating of highly satisfactory [overall]. Had past performance information been more specific in addressing flexibility and timeliness, this area may have been rated at a higher-level.” *Id.*, Tab R, Technical Evaluation of MIL, at 3.

We find the agency’s evaluation of MIL with regard to past performance was reasonable. It is the responsibility of a firm competing for a government contract to provide an adequately written submission, and an agency may downgrade a submission for the lack of requested information. Incident Catering Servs., LLC, B-296435.2 *et al.*, Sept. 7, 2005, 2005 CPD ¶ 193 at 7; Formal Mgmt. Sys., Inc., B-259824, May 3, 1995, 95-1 CPD ¶ 227 at 3. Here, MIL’s quotation failed to provide any specific examples of flexibility or timely task completion, as required by the RFQ. In fact, the only parts of its quotation to which the protester points as evidencing flexibility and timeliness are statements which merely repeat the past performance evaluation subfactors. Protest, Dec. 5, 2005, at 10. In light of the fact that MIL’s quotation does no more than “parrot back” the stated evaluation criteria, we find the agency’s evaluation here to be both reasonable and consistent with the solicitation. See Wahkontah Servs., Inc., B-292768, Nov. 18, 2003, 2003 CPD ¶ 214 at 7.

MIL also argues that the agency was aware of its performance under the incumbent contract, even if it failed to demonstrate flexibility and timeliness in its quotation. MIL argues that this information was “too close at hand” for the agency to ignore in its evaluation of the quotation.

Our Office has recognized that in certain limited circumstances an agency evaluating an offeror’s proposal has an obligation (as opposed to the discretion) to consider “outside information” bearing on the offeror’s proposal. International Bus. Sys., Inc., B-275554, Mar. 3, 1997, 97-1 CPD ¶ 114 at 5; G. Marine Diesel; Phillyship, B-232619,

B-232619.2, Jan. 27, 1989, 89-1 CPD ¶ 90 at 4-5. Where we have charged an agency with responsibility for considering such outside information, the record has demonstrated that the information in question was “simply too close at hand to require offerors to shoulder the inequities that spring from an agency’s failure to obtain, and consider this information.” International Bus. Sys., Inc., *supra*; see GTS Duratek, Inc., B-280511.2, B-280511.3, Oct. 19, 1998, 98-2 CPD ¶ 130 at 14.

In those narrow instances where we have applied the “simply too close at hand” principle, we have required the protester to demonstrate that the outside information bearing on the offeror’s proposal was not just known by the agency generally, but rather, that the information was known to the specific agency employees involved in the source selection process. For example, in International Bus. Sys., Inc., the protester demonstrated that the contracting officer had first-hand knowledge of the protester’s past performance of the required work; in GTS Duratek, the protester demonstrated that the agency failed to consider the offeror’s performance of a prior contract where the contracting officer’s technical representative for the incumbent contract had personal knowledge of the offeror’s prior performance and was a member of the technical evaluation team for the subject solicitation.

With respect to MIL’s contention that the agency improperly failed to consider information about its incumbent performance, we think that MIL has failed to make a sufficient showing for our application of the “simply too close at hand” principle; it has not demonstrated, or even alleged, that the information regarding flexibility or timeliness under the predecessor contract was known to the specific agency personnel involved in the procurement here. Where, as here, a firm first fails in its responsibility to submit a quotation or proposal sufficient for evaluation, and then fails to sufficiently demonstrate that the information in question was known to the individual agency employees involved in the evaluation, we will not extend the “simply too close at hand” exception on the protester’s behalf.

#### Source Selection Decision

Lastly, MIL challenges the agency’s source selection decision. Specifically, MIL alleges that the Navy improperly converted the basis for the award determination from best value, as set forth in the solicitation, to a low priced/technically acceptable evaluation. The protester argues that had the contracting officer properly performed a best-value determination, she would have realized that the technical advantages of MIL’s quotation warranted its higher price. MIL also argues that the agency failed to adequately document the best-value determination.

An agency may not announce in the solicitation that it will use one evaluation plan and then follow another; once offerors are informed of the criteria against which their proposals will be evaluated and the source selection decision made, the agency must adhere to those criteria or inform all offerors of significant changes. American Guard Servs., Inc., B-294359, Nov. 1, 2004, 2004 CPD ¶ 225 at 6; DynCorp, B-245289,

B-245289.2, Dec. 23, 1991, 91-2 CPD ¶ 575 at 5. Where a solicitation provides for award on a “best value” or “most advantageous to the government” basis, it is the function of the source selection authority to perform price/technical tradeoffs, that is, to determine whether one proposal’s technical superiority is worth the higher price, and the extent to which one is sacrificed for the other is governed only by the test of rationality and consistency with the stated evaluation criteria. See Chenega Technical Prods., LLC, B-295451.5, June 22, 2005, 2005 CPD ¶ 123 at 8; Leach Mgmt. Consulting Corp., B-292493.2, Oct. 3, 2003, 2003 CPD ¶ 175 at 3-4. Where a price/technical tradeoff is made, the source selection decision must be documented, and the documentation must include the rationale for any tradeoffs made, including the benefits associated with additional costs.<sup>14</sup> FAR §§ 15.101-1(c), 15.308; All Star-Cabaco Enter., Joint Venture, B-290133, B-290133.2, June 25, 2002, 2002 CPD ¶ 127 at 8-9.

In making the source selection decision here, the contracting officer premised her determination upon review and acceptance of the evaluation findings and ratings of the vendors’ quotations under the stated evaluation factors as follows:

	Management Plan	Past Performance	Technical Approach	Price
<b>Anteon</b>	Outstanding	Highly Satisfactory	Outstanding	\$2,428,841
<b>MIL</b>	Outstanding	Highly Satisfactory	Outstanding	\$2,517,353
<b>Vendor C</b>	Outstanding	Highly Satisfactory	Highly Satisfactory	\$2,315,432

AR, Tab W, Source Selection Decision, at 1.

The contracting officer then determined that although Anteon’s quotation was priced \$113,408.53 (4.7 percent) higher than Vendor C’s quotation, Anteon’s quotation represented the best value to the government because of its superior technical approach. Id. at 2. After the filing of MIL’s protest, the contracting officer amended her source selection decision to elaborate on the rationale for selection of Anteon over MIL as follows:

On technical, Anteon was considered to have the highest rating having received an overall outstanding score from both evaluators. Next were [Vendor C] and The MIL Corp. with an outstanding and highly

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<sup>14</sup> This explanation can be given by the source selection authority in the award decision, or it can be evidenced from the documents on which the source selection decision is based. TRW, Inc., B-260788.2, Aug. 2, 1995, 96-1 CPD ¶ 11.

satisfactory from each evaluator. Anteon was selected over [Vendor C] because it received a higher technical rating and was below the government estimate. The proposal from The MIL Corp. was much higher than the proposal from [Vendor C] and higher than Anteon's. Because The MIL Corp.'s proposal was higher priced than Anteon's and received a lower average score, it was not considered further for award.

AR, Tab X, Amended Source Selection Decision.<sup>15</sup>

Here, contrary to the protester's assertions, we find that the Navy did not improperly change the award basis from best value to low priced/technically acceptable. As evidenced by the contemporaneous record, the agency evaluated vendors' quotations using an adjectival rating system that distinguished vendors' relative technical merits on other than an acceptable/unacceptable (pass/fail) basis. The contracting officer then performed a price/technical tradeoff and determined that Anteon's technical superiority vis-à-vis Vendor C was worth the difference in price. As the contracting officer reasonably determined that the quotations of Anteon and MIL were, at best, technically equal, and Anteon's price was lower than MIL's (so that no price/technical tradeoff analysis was needed), we see no basis to find unreasonable the contracting officer's selection of Anteon's quotation over that of MIL as representing the best value to the Navy. The fact that no tradeoff analysis was required between Anteon and MIL as part of the source selection decision does not negate the fact that the agency properly adhered to the RFQ's best-value selection basis. See SAMS El Segundo, LLC, B-291620, B-291620.2, Feb. 3, 2003, 2003 CPD ¶ 44 at 19; Weber Cafeteria Servs., Inc., supra, at 6. Moreover, in light of the agency's determination that the quotations of Anteon and MIL were no more than technically equal and that no tradeoff between these quotations was required, we see no basis to conclude that the agency failed to adequately document its source selection here.

The protests are denied.

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General Counsel

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<sup>15</sup> While we generally accord greater weight to contemporaneous evidence of an evaluation and source selection decision, we will consider post-protest explanations that provide a rationale for contemporaneous conclusions, where, as here, those explanations are credible and consistent with the contemporaneous record. Professional Landscape Mgmt. Servs., Inc., B-286612, Dec. 22, 2000, 2000 CPD ¶ 212 at 4; ITT Fed. Servs. Int'l Corp., B-283307, B-283307.2, Nov. 3, 1999, 99-2 CPD ¶ 76 at 6.