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

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Decision

Matter of: Celta Services, Inc.

File: B-411835; B-411835.2

Date: November 2, 2015

Keith L. Baker, Esq., Barton, Baker, Thomas & Tolle, LLP, for the protester.
Barry J. Hurewitz, Esq., and Carla J. Weiss, Esq., Wilmer Cutler Pickering Hale and Dorr LLP, for Diversitech, Inc., the intervenor.
Elin M. Dugan, Esq., Department of Agriculture, for the agency.
Peter D. Verchinski, Esq., Noah B. Bleicher, Esq., and Nora K. Adkins, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest is sustained where the agency's source selection decision erroneously referenced weaknesses that were resolved in the protester's final proposal revision.
 2. Protest challenging the agency's evaluation of proposals is sustained where the record fails to demonstrate that the agency's assignment of point scores was reasonably based or consistent among the offerors.
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DECISION

Celta Services, Inc., a small business of Kenner, Louisiana, protests the award of a contract to Diversitech, Inc., of Cincinnati, Ohio, under request for proposals (RFP) No. AG-32SD-S-14-0001, issued by the Department of Agriculture (USDA), Agricultural Research Service (ARS), for operations and maintenance support services. Celta challenges the agency's evaluation and source selection decision.

We sustain the protest.

BACKGROUND

The RFP, issued on January 27, 2014, under Federal Acquisition Regulation (FAR) Part 15, sought to award a fixed-price contract for operations and maintenance support services at ARS's southern regional research center in New Orleans,

Louisiana, for a 4-month base period with four 1-year options.¹ RFP at 1, 3, 12. The RFP provided that award would be made utilizing best-value tradeoff procedures, considering both technical merit and price. Id. at 54-55.

Pursuant to the RFP, technical merit was to be assessed under the following three evaluation factors (with corresponding point values): past performance (50 points); quality control (25 points); and management and operation (25 points). Id. at 54. Each technical factor was composed of two subfactors. The past performance factor consisted of “similar experience and ratings” (35 points) and “number of contracts terminated” (15 points) subfactors. The quality control factor consisted of “work requests/orders monitoring” (15 points) and “communication, validation and resolution” (10 points) subfactors. The management and operation factor consisted of “key positions/minimal [program manager] qualifications” (12.5 points) and “overall management and operation plan” (12.5 points) subfactors. The technical factors, when combined, were to be significantly more important than price. Id.

The agency received ten proposals by the March 17, 2014, closing date. A technical evaluation panel (TEP) conducted an initial evaluation of proposals, identifying proposal strengths, weaknesses, and deficiencies, and assigning point scores under each of the evaluation subfactors. Agency Report (AR), Tab 20, Initial TEP Report, at 1-20. The TEP’s initial consensus point scores for Celta’s and Diversitech’s proposals were as follows:

	Celta	Diversitech
Factor 1: Past Performance		
Similar Experience and Ratings (35 pts)	32	30
Number of Contracts Terminated (15 pts)	15	15
Factor 2: Quality Control		
Work Requests/Orders Monitoring (15 pts)	14	15
Communication, Validation, Resolution (10 pts)	9	10
Factor 3: Management and Operation		
Key Personnel/Minimal PM Qual. (12.5 pts)	12	12
Overall Mgmt. and Operation Plan (12.5 pts)	12	12
TOTAL POINT SCORE	94	94
INITIAL PRICE	[DELETED]	[DELETED]

¹ The RFP included a fixed-price component for “routine work” and an indefinite-delivery, indefinite-quantity labor hour component for non-routine tasks. RFP at 3, 12.

Id. at 2-3; Tab 8, Price Negotiation Memorandum/Award Summary, at 6-7. The record reflects that Celta's and Diversitech's proposals both had the highest total technical score (94 points). See AR, Tab 20, Initial TEP Report, at 2-3.

With regard to Diversitech's proposal, the TEP identified several strengths, two weaknesses, and one deficiency. Id. at 5-6. Specifically, under the past performance factor, the TEP found a weakness for failing to list individual technical personnel by labor skill in the contracts Diversitech submitted for review, as well as a deficiency for failing to include past performance evaluations with the firm's proposal. Id. at 5. The TEP also identified as a weakness under the quality control factor a lack of clarity in the firm's corporate support of quality control. Id. at 6. The TEP did not identify any weaknesses or deficiencies for Diversitech's proposal under the management and operation factor. Id.

With regard to Celta's proposal, the TEP's evaluation found several strengths, three weaknesses, and one deficiency. Id. at 11-12. Specifically, the TEP noted as a weakness under the past performance factor that the firm failed to adequately explain how Celta had supported safety in its other contracts, and identified a deficiency for failing to include past performance evaluations with the firm's proposal. Id. The TEP also found two weaknesses under the management and operation evaluation factor, one for failing to describe lines of authority between the home office and the program manager, and the other for not clearly addressing the firm's methodology for obtaining additional work. Id. at 12. The TEP did not identify any weaknesses or deficiencies for Celta's proposal under the quality control factor. Id.

Following the TEP's initial evaluation, the agency established a competitive range of the six most highly-rated offers, which included Celta's and Diversitech's proposals. During discussions, each firm in the competitive range was notified of the weaknesses and deficiencies identified by the TEP. Agency Legal Memorandum at 5; AR, Tab 19, Celta Discussions Letter, at 1-2; Tab 18, Diversitech Discussions Letter, at 1-2. Each firm subsequently provided a response to the issues raised during discussions. See AR, Tab 16, Celta Final Proposal Revision, at 1-8; Tab 17, Diversitech Final Proposal Revision, at 1-84.

On January 15, 2015, the TEP conducted an evaluation of the final proposals, which resulted in revised point scores and a brief narrative evaluation for each offeror. AR, Tab 13, Final TEP Report and Recommendation for Contract Award, at 1-4. With respect to Diversitech's proposal, the TEP wrote:

Diversitech was rated superior^[2] overall by the TEP and shows an excellent understanding of the SOW [Statement of Work] and significant experience. As requested in [discussions], Diversitech, Inc. provided the list of technical personnel by labor class and performance ratings from previous contracts. Total Consensus Technical Score for Diversitech, Inc. went from 94 to 97.

Id. at 2. The record reflects that the three point increase was due to the evaluator's assignment of additional points under the past performance factor. AR, Tab 15, Proposal Evaluation Consensus Worksheet, at 1. With regard to Celta's proposal, the TEP stated, in part:

Celta is the incumbent contractor. Their superior rating overall by the TEP was justified by Celta's understanding of the SOW and firsthand knowledge of their work. As requested in [discussions], Celta Services, Inc. included their past performance evaluations, which were satisfactory. The Total Consensus Technical Score was increased from 94 to 95.

AR, Tab 13, Final TEP Report and Recommendation for Contract Award, at 2. The record reflects that the TEP raised Celta's past performance score by 1 point, resulting in a total point score of 95. AR, Tab 14, Proposal Evaluation Consensus Worksheet, at 1. The TEP recommended award to a third offeror (Offeror A) on the grounds that the TEP "could find no specific reason" as to why Offeror A could not perform the contract at a lower price than Diversitech.³ AR, Tab 13, Final TEP Report and Recommendation for Contract Award, at 3.

Following the TEP's final evaluation, the contracting officer submitted the contract file to USDA's contract review board (CRB).⁴ Contracting Officer's Statement, Aug. 21, 2015, at 3. Although the CRB approved the contract file, it cited "reservations about consistency in the scoring process." Id. In response, the TEP reconvened and made adjustments to the consensus scores. With respect to Celta's and Diversitech's proposals, the TEP ultimately revised the scores as follows:

² Other than here, and a similar reference in Celta's narrative (see below), the proposals were not assigned adjectival ratings.

³ The record reflects that Offeror A had the third highest technical score (89 points) and submitted the lowest-priced proposal. See AR, Tab 13, Final TEP Report and Recommendation for Contract Award, at 3.

⁴ The CRB reviews the contract file for completeness and compliance with the FAR and agency regulations. Contracting Officer's Statement at 3.

	Celta	Diversitech
Factor 1: Past Performance		
Similar Experience and Ratings (35 pts)	33	33
Number of Contracts Terminated (15 pts)	15	15
Factor 2: Quality Control		
Work Requests/Orders Monitoring (15 pts)	15	15
Communication, Validation, Resolution (10 pts)	10	10
Factor 3: Management and Operation		
Key Personnel/Minimal PM Qual. (12.5 pts)	12	12.5
Overall Mgmt. and Operation Plan (12.5 pts)	12	12.5
TOTAL POINT SCORE	97	98

AR, Tab 11, Additional TEP Review Addressing CRB Concerns, at 1-2.

The TEP’s revised evaluation provided a brief explanation as to why certain scores were changed. For instance, the TEP raised Diversitech’s score under the management and operations factor from 24 to 25 total points because “there were no documented weaknesses or deficiencies to account for awarding less than the maximum score of 12.5 points” for each subfactor. Id. at 1. The TEP also raised Celta’s score under the quality control factor because, with regard to the work requests/orders monitoring subfactor, “there were no documented weaknesses or deficiencies to account for awarding less than the maximum score of 15 points.” Id. Similarly, with regard to the communication, validation, and resolution subfactor, the TEP explained that its “original TEP report listed a weakness” for this subfactor; however, this weakness was not brought to Celta’s attention during discussions.⁵ The agency decided to “credit the point that the TEP report had subtracted for this weakness.” Id.

Following the TEP revisions, the contract specialist prepared a memorandum for the contracting officer, who was also the source selection authority (SSA). AR, Tab 8, Price Negotiation Memorandum/Award Summary, at 1-13. This memorandum included a detailed procurement history, and provided the initial, final, and revised evaluations for each offeror. Id. The contract specialist recommended award to Diversitech. Id. at 13.

⁵ This statement is not supported by the record of the TEP’s initial evaluation. In this regard, the initial TEP report submitted to our Office does not identify any weaknesses for Celta under either quality control subfactor. See AR, Tab 20, Initial TEP Report, at 12.

On July 15, the SSA made her source selection decision. AR, Tab 9, Source Selection Decision Memorandum (SSDM), at 1-6. The SSA stated that she conducted an independent analysis of the proposals in the competitive range by reviewing the TEP evaluation results and the agency’s assessment of prices. Id. at 2-3. In the memorandum, the SSA explained that she agreed with and accepted the TEP’s assessments and ratings of the offerors’ final point scores, summarized as follows:

	Total Score	Price
Diversitech	98	\$11,472,423
Celta	97	\$12,265,754
Offeror A	92	\$9,719,629
Offeror B	94	\$11,523,500
Offeror C	88	\$12,245,037
Offeror D	82	\$12,357,609

Id. at 2. With regard to Diversitech’s proposal, the SSA highlighted the strengths identified by the evaluators under each factor. The SSA did not discuss any of the weaknesses initially assigned to Diversitech’s proposal. With regard to Celta’s proposal, the SSA also highlighted the strengths identified by the TEP. However, unlike her discussion of Diversitech’s proposal, the SSA included a description of the weaknesses assigned to Celta’s proposal (under the past performance and management and operation factors) as part of the TEP’s initial evaluation. Id. at 3-4.

In making her award determination, the SSA noted that the technical evaluation factors were significantly more important than price, and concluded, without conducting a comparison of the relative merits of the proposals, that “Diversitech, with a technical score of 98, had the highest technical scoring by several points and should therefore receive this award.”⁶ Id. at 6.

The agency made award to Diversitech, and Celta timely requested and received a debriefing. This protest followed.

⁶ While the decision memorandum states that the SSA conducted an “integrated assessment,” other than a factual summary of the TEP’s assessment of strengths and weaknesses, the memorandum is devoid of any comparative analysis. Id. at 6.

DISCUSSION

Celta challenges the agency's evaluation and ultimate award decision. The protester argues that the source selection decision was unreasonable because it was based upon weaknesses that were not contained in Celta's final proposal. Celta also asserts that the agency unreasonably evaluated its proposal and improperly considered certain assessments of the awardee's past performance. We have reviewed the entire record and the arguments of the parties, and, as described below, find that the agency's evaluation and award decision were unreasonable.⁷

Celta first asserts that the agency's source selection decision was flawed because the SSA relied on erroneous information. Specifically, Celta points to the weaknesses highlighted by the SSA in her source selection decision memorandum. Celta maintains that the firm resolved each of these weaknesses during discussions and, consequently, the SSA's consideration of these weaknesses as part of her award decision was improper. We agree.

In reviewing protests of an agency's evaluation and source selection decision, our Office will not reevaluate proposals; rather, we review the record to determine whether the evaluation and source selection decision are reasonable and consistent with the solicitation's evaluation criteria, and applicable procurement laws and regulations. Velos, Inc., B-400500.8, B-400500.9, Dec. 14, 2009, 2010 CPD ¶ 13 at 11; Keeton Corrections, Inc., B-293348, Mar. 4, 2004, 2005 CPD ¶ 44 at 6. While we will not substitute our judgment for that of the agency, we will sustain a protest where the agency's conclusions are inconsistent with the solicitation's evaluation criteria, undocumented, or not reasonably based. DRS ICAS, LLC, B-401852.4, B-401852.5, Sept. 8, 2010, 2010 CPD ¶ 261 at 4-5.

Based on our review of the record, we cannot conclude that the agency's source selection decision was reasonable. In this regard, the record confirms that the TEP determined that Celta's final proposal resolved all of the weaknesses cited by the

⁷ In its various protest submissions, Celta has raised arguments in addition to, or that are variations of, those discussed herein. While we do not address every issue raised, we have considered all of Celta's various arguments and allegations and find that, except as discussed below, they provide no basis to sustain the protest. Furthermore, we note that Celta filed a supplemental protest, and then failed to timely file its comments on the agency's supplemental report. In accordance with our Regulations, we dismiss these protest grounds. 4 C.F.R. §§ 21.3(i); 21.10(e); Bevilacqua Research Corp., B-293051, Jan. 12, 2004, 2004 CPD ¶ 15 at 11 n.11 (noting dismissal of supplemental protest where comments were not filed by deadline established by GAO attorney).

SSA in her memorandum.⁸ See Agency Supp. Memorandum, exh. A, Response of TEP Chair, at 1-2. Indeed, the contract specialist concedes that when she drafted the source selection decision memorandum for the SSA's review and signature, she erroneously "assumed that they were still considered to be weaknesses" because she did not see language in the TEP's reports that Celta addressed the weaknesses. Id., exh. A, Response of Contract Specialist, at 6. Thus, the record is clear that the inclusion of Celta's weaknesses in the SSA's memorandum was in error. Consequently, we find unreasonable the agency's source selection decision.

While the agency argues that the SSA in making her award determination actually did not consider the weaknesses she described in her source selection decision, we find this argument unavailing. In this regard, in a declaration submitted to our Office during the course of the protest, the SSA maintains that she "did not rely upon the specific strengths and weaknesses" described in her memorandum.⁹ Agency Supp. Memorandum, exh. A, Response of SSA, at 3. Instead, the SSA asserts that her award decision was "based upon a comparison of each proposal's final consensus score and price." Id. at 3, 5. The agency's explanation in this respect is problematic for several reasons.

First, the contemporaneous record does not support the agency's post-hoc position that the documented weaknesses did not influence the SSA's decision. As noted above, the source selection decision memorandum clearly describes the (erroneous) weaknesses in Celta's proposal as part of the SSA's "findings." AR, Tab 9, SSDM, at 6. Nowhere in the source selection decision memorandum does the SSA report that she did not consider these "findings"; only in her post-protest declaration does the SSA disavow relying on the documented proposal strengths and weaknesses. See Agency Supp. Memorandum, exh. A, Response of SSA, at 3. Because the agency's post-protest defense is not supported by the contemporaneous record, we find such explanation to be unpersuasive and afford it

⁸ While the contemporaneous evaluation record is mostly silent with respect to the mitigation of weaknesses, the TEP chairperson explained in a declaration submitted in response to the protest that Celta had, in fact, addressed all of the weaknesses in its proposal. See Agency Supp. Memorandum, exh. A, Response of TEP Chair, at 1 (noting that Celta resolved the weaknesses under the past performance factor) and 2 (noting that Celta resolved the weaknesses under the management and operation factor).

⁹ We note that the agency initially defended the reasonableness of the weaknesses and the SSA's consideration of the weaknesses in multiple pleadings to our Office in response to the protest. See e.g., Agency Legal Memorandum at 12-13. The agency ultimately conceded that the weaknesses actually had been mitigated and were included in the source selection decision memorandum by mistake. See Agency Supp. Memorandum at 17.

little weight. See Dismas Charities, Inc., B-292091, June 25, 2003, 2003 CPD ¶ 125 at 8-9; Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91. We accord much greater weight to contemporaneous source selection materials than to representations, such as the selection official's statements here, made in response to protest contentions. Southwest Marine, Inc.; Am. Sys. Eng'g Corp., B-265865.3, B-265865.4, Jan. 23, 1996, 96-1 CPD ¶ 56 at 10.

Furthermore, to the extent the SSA actually relied primarily on the point scores assigned by the TEP in making her award determination--as she suggests--such mechanical comparison of the consensus scores, without any qualitative assessment of proposals (i.e., without a consideration of the proposal strengths or weaknesses, as the SSA reports) is unreasonable. See YORK Bldg. Servs., Inc., B-296948.2 et al., Nov. 3, 2005, 2005 CPD ¶ 202 at 5; Opti-Lite Optical, B-281693, Mar. 22, 1999, 99-1 CPD ¶ 61 at 5 (finding source selection not reasonable where award determination was based entirely on a comparison of total technical points and prices). Point scores cannot be used as a substitute for adequate documentation showing the bases for the evaluation conclusions reached and source selection decision made. Panacea Consulting, Inc., B-299307.4, B-299308.4, July 27, 2007, 2007 CPD ¶ 141 at 5. Thus, if we accept the agency's post-hoc explanation, then we are left with a source selection based on a mechanical application of point scores, which would be unreasonable. See The Clay Group, LLC, B-406647, B-406647.2, July 30, 2012, 2012 CPD ¶ 214 at 12 (finding comparison of proposals based on point scores alone to be inadequate); Midland Supply, Inc., B-298720, B-298720.2, 2007 CPD ¶ 2 at 5; see also FAR § 15.308.

We also find the agency's post-hoc explanation problematic because we cannot conclude that the TEP's assignment of technical point scores was proper. The assignment of the underlying point scores must be on an intelligible, reasonable, equal and consistent basis for all proposals. Nexant, Inc., B-407708, B-407708.2, Jan. 30, 2013, 2013 CPD ¶ 59 at 7. Here, on the record before us, we conclude that the point scores were not reasonably or consistently assigned.

For example, as discussed above, the CRB reviewed the TEP's evaluation report and had "reservations about consistency in the scoring process." Contracting Officer's Statement at 3. In response to the CRB's concerns, the TEP revised the consensus scores of four proposals. The record shows that, with respect to Diversitech's proposal, the TEP added one point under the management and operation factor because "there were no documented weaknesses or deficiencies" to support a less than perfect score. AR, Tab 11, Additional TEP Review Addressing CRB Concerns, at 1. However, with respect to Celta's proposal, the TEP made no such adjustments under the management and operation factor even

though, as the TEP chairperson declared, the firm had addressed its weaknesses during discussions, i.e., there were no documented weaknesses or deficiencies.¹⁰ Without explanation, Celta's proposal was assigned less than the maximum number of points under the factor. Thus, it appears that the TEP increased the points for Diversitech's proposal but did not similarly increase Celta's point score, even though both proposals contained no weaknesses.¹¹ Without any contemporaneous explanation or documentation in the record to justify the TEP's actions here, we cannot conclude that the point scores, on which the SSA allegedly placed so much reliance, were rationally assigned.

As another example, we find that the record of the agency's evaluation of the awardee's past performance factor is insufficient for us to conclude that the evaluation was reasonable. For instance, despite the RFP's provision that offerors submit for review contracts performed within the past five years,¹² see RFP at 47, Diversitech submitted, and the TEP considered, multiple positive past performance evaluations clearly outside the 5-year window established in the solicitation. See e.g., AR, Tab 17, Diversitech's Revised Proposal, at 19, 38, 40, 43-59; Agency Supp. Memorandum, exh. A, Response of TEP Chair, at 4. Indeed, the record shows that Diversitech submitted for review a performance evaluation from as far back as September 2004. AR, Tab 17, Diversitech's Revised Proposal, at 58. Because the contemporaneous evaluation record does not describe how or why point scores were assigned, or which of Diversitech's past performance evaluations specifically were considered, we are unable to determine to what extent these performance reviews led to Diversitech's 48-point rating. Consequently, we cannot

¹⁰ The TEP did increase the points assigned to Celta's proposal under the two quality control subfactors. Under the work requests/orders monitoring subfactor, the TEP added one point because "there were no documented weaknesses or deficiencies to account for awarding less than the maximum score." AR, Tab 11, Additional TEP Review Addressing CRB Concerns, at 1. The TEP also added a point under the communication, validation, and resolution subfactor because, according to the TEP, the contracting staff had "erroneously left out [a] weaknesses as a discussion topic" and never gave Celta the opportunity to address the weakness in its final proposal. Id. Despite this explanation, we note again that none of the evaluation reports submitted in response to this protest identifies any weakness assigned to Celta's proposal under this particular subfactor.

¹¹ The TEP adjusted the points for two other proposals as well based on the fact that there were no documented weaknesses or deficiencies. AR, Tab 11, Additional TEP Review Addressing CRB Concerns, at 1.

¹² The RFP required offerors to identify three to five contracts of a similar nature and complexity with multiple-function support services performed within the past five years. RFP at 47. Among other things, offerors were to provide performance/evaluation ratings for the contracts submitted for review. Id.

conclude that the point score assigned to Diversitech's proposal under the past performance factor was reasonable. Computer Sciences Corp., et al., B-408694.7 et al., Nov. 3, 2014, 2014 CPD ¶ 331 at 11 (agencies are required to adequately document their evaluation results in order to facilitate our examination of the record; where, due to a lack of documentation, we are unable to understand the agency's evaluation conclusions, we will sustain a protest challenging the agency's evaluation).

In sum, the record reflects that the source selection decision contained incorrect information with regard to weaknesses in Celta's proposal, which the protester argues, and the agency has not effectively rebutted, influenced the ultimate award decision. Moreover, the overall evaluation documents demonstrate a lack of rationality and consistency on the part of the agency evaluators in assigning point scores to the proposals, such that the scores relied on by the SSA cannot be said to be reliable or reflective of the comparative merits of the proposals. Thus, we cannot conclude that the agency's evaluation or award determination was reasonable, and we sustain Celta's protest.

Competitive Prejudice

Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions, that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. Raytheon Co., B-409651, B-409651.2, July 9, 2014, 2014 CPD ¶ 207 at 17; McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3.

The agency argues that Celta was not prejudiced by any evaluation errors or issues stemming from the source selection decision memorandum. Specifically, the agency argues that "even with a perfect technical score of 100, Celta would have had little chance of receiving the award," given that its price was the second highest of the six offers in the competitive range. Agency Legal Memorandum at 16. The SSA further contends that "[t]he weakness that ultimately took Celta Services, Inc. out of consideration for award was its pricing." Agency Supp. Memorandum, exh. A, Response of SSA, at 3. While the agency argues that the errors which occurred would not have affected its source selection, we conclude, particularly in light of the multiple, material flaws explained above, that the protester was prejudiced by the agency's actions.

As discussed above, the SSA's source selection decision and underlying evaluation were unreasonable. Given that the solicitation placed significant weight on technical merit, and considering that Celta may have actually had the superior technical proposal (when the flaws in the agency's evaluation are corrected), we find it possible that the SSA could have made the award to Celta notwithstanding its slightly higher price. (Indeed, the SSA selected Diversitech's proposal for award

even though it was not the lowest-priced proposal and a mere six technical points higher-rated than a nearly \$2 million lower-priced proposal.) In this regard, at no point in the source selection decision memorandum did the SSA compare the merits of the two proposals and conclude that the strengths provided in Celta's proposal did not outweigh Diversitech's lower price.¹³ Moreover, the SSA's post-hoc declaration that Celta's higher price would preclude it from receiving an award is afforded little weight because the statement was prepared in the heat of the adversarial process and may not represent the fair and considered judgment of the agency, which is a prerequisite of a rational evaluation and source selection process. See Boeing Sikorsky Aircraft Support, supra at 15.

Thus, we cannot say whether the SSA would have determined that certain discriminators in Celta's proposal would justify the payment of a price premium if she had conducted a proper tradeoff. In such circumstances, we resolve any doubts regarding prejudice in favor of a protester since a reasonable possibility of prejudice is a sufficient basis for sustaining a protest. See Kellogg, Brown & Root Servs., Inc.-Recon., B-309752.8, Dec. 20, 2007, 2008 CPD ¶ 84 at 5. Accordingly, we conclude that Celta has established the requisite competitive prejudice to prevail in a bid protest.

RECOMMENDATION

We recommend that the agency reevaluate proposals in a manner consistent with the solicitation and our discussion above. Based upon the results of the revaluation, the agency should make a new source selection decision. Should the agency conclude that an offeror other than Diversitech is in line for award, we recommend that the agency terminate the contract awarded to Diversitech and award the contract to that offeror, if otherwise proper. We also recommend that the agency reimburse Celta its reasonable costs of filing and pursuing its protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protester's certified claim for costs, detailing the time spent and the cost incurred, must be submitted to the agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained.

Susan A. Poling
General Counsel

¹³ The FAR mandates that awards be based on a comparative assessment of proposals, and that the agency must document its rationale for any business judgments and tradeoffs made by the SSA. FAR § 15.308.