

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Creol Consulting, LLC

File: B-419460; B-419460.2

Date: March 4, 2021

Thomas A. Coulter, Esq., Whiteford Taylor & Preston LLP, for the protester. Llewelyn M. Engel, Esq., McDermott Will & Emery LLP, for Savantage Solutions; Jeffery M. Chiow, Esq., Neil H. O'Donnell, Esq., Emily A. Wieser, Esq., and Eleanor M. Ross, Esq., Rogers Joseph O'Donnell, for CGI Federal Inc., the intervenors. Charlene T. Storino, Esq., Department of Homeland Security, for the agency. Michael P. Grogan, Esq., and Evan D. Wesser, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency's evaluation of protester's quotation is denied where the evaluation was reasonable and consistent with the stated evaluation criteria.
 2. Protest alleging that the agency engaged in disparate treatment in the evaluation of quotations is denied where the different evaluation results were reasonably based on substantive differences between the quotations.
-

DECISION

Creol Consulting, LLC, a small business of Bethesda, Maryland, protests the failure of the Department of Homeland Security (DHS) to establish a blanket purchase agreement (BPA) with the firm under request for quotations (RFQ) No. 70RDAD19Q00000101, for enterprise financial systems integrator support services. The protester contends, among other things, that the agency's evaluation of quotations was unreasonable, uneven, and inconsistent with the terms of the solicitation, and that DHS's best-value tradeoff was flawed.

We deny the protest.

BACKGROUND

The agency issued the solicitation on October 30, 2019, pursuant to the procedures in Federal Acquisition Regulation (FAR) subpart 8.4, to vendors holding General Services Administration federal supply schedule (FSS) contracts under Information Technology

Schedule 70. Agency Report (AR), Tab 5b, RFQ amend. 1 at 4¹; Contracting Officer's Statement (COS) at 2. The solicitation contemplated the establishment of multiple BPAs, with a period of performance of 10 years, where the underlying orders will be placed on fixed-price, time-and-materials, and labor-hour bases. AR, Tab 5b, RFQ amend. 1 at 4, 23. The solicitation sought enterprise financial systems integrator (EFSI) support services for DHS's transition to standard financial, procurement, and asset management business processes. *Id.* at 28-29. Specifically, contractors will be required to perform tasks such as program management, system integration and implementation, data cleansing, preparation and staging, service desk operations, system operations and maintenance, and training services. See *id.* at 39-58.

The solicitation advised that BPAs would be issued to vendors on a best-value tradeoff basis, considering price and other factors.² *Id.* at 71. The agency utilized a phased evaluation. During phase one, vendors were evaluated against three factors: (i) demonstrated prior experience and reference checks; (ii) technical understanding and capabilities; and (iii) management approach. *Id.* at 72. Following the agency's evaluation in phase one, DHS would then notify vendors who were rated most highly to proceed to phase two of the competition. *Id.* at 60-61. Vendors who participated in this second phase would be evaluated in two areas: (i) oral presentation; and (ii) price. *Id.* at 72. The solicitation advised that the evaluation factors were listed in descending order of importance--with demonstrated prior experience and reference checks being the most important, and price being the least important--and that the technical factors, when combined, were significantly more important than price. *Id.* The RFQ provided that DHS would consider the benefits and risks associated with a vendor's approach to arrive at a confidence assessment of each vendor's likelihood of successfully performing the work and meeting the requirements of the solicitation. *Id.* at 73. To do so, the agency used an adjectival confidence-rating scheme to evaluate the non-price factors, with the following possible ratings: high confidence; some confidence; and low confidence. *Id.*

Concerning the phase one evaluation criteria, DHS would evaluate each vendor's approach to determine the agency's level of confidence that the firm would successfully perform the required work. *Id.* at 72. Under the demonstrated prior experience and reference checks factor, vendors were to describe their experience based on two to four contracts or task orders performed within the past five years that demonstrated their experience across specifically enumerated tasks. AR, Tab 5c, RFQ amend. 2 at 2-3. Under the technical understanding and capabilities factor, vendors were required to "demonstrate their knowledge, understanding and capabilities of meeting the requirements" of the RFQ, and "describe their proposed strategy and methods for

¹ References herein are to the electronic page numbering of the exhibits produced with the agency's report.

² DHS intended to establish three to five BPAs, but "reserve[ed] the right to increase or decrease the number of BPAs it establishes based upon the results of the evaluation." AR, Tab 5b, RFQ amend. 1 at 71.

conducting all required services in accordance with the DHS Systems Engineering Life Cycle (SELC) policy and guidebook.” *Id.* at 3. And under the management approach factor, vendors were to describe the qualifications and certifications of their key personnel, their proposed use of corporate resources to manage the work performed, and provide a comprehensive, sound, and reasonable approach to managing the requirements as described in the RFQ. AR, Tab 5b, RFQ amend. 1 at 64-65.

For phase two, a vendor was to provide an oral presentation “to detail its proposed approach to meet or exceed the requirements of the solicitation.” *Id.* at 65. Specifically, the RFQ advised that vendors should provide a presentation addressing specific technical and management task areas. *See id.* at 66-67. The solicitation further provided that the oral presentation would not allow for any revision or change to a vendor’s prior written quotation. *Id.* at 65. The agency would assess the quality of each vendor’s oral presentation--a firm’s presentation slides would not be evaluated--and the “viability of an Offeror to successfully deliver its proposed solution, by evaluating the responses to the on-the-spot questions, and interactive dialogue.” *Id.* at 72-73. Finally, price would be evaluated for reasonableness. *Id.* at 73.

DHS received multiple quotations by the phase one submission deadline established in the RFQ, but only eight firms proceeded to phase two of the competition, including Creal, Savantage Solutions, and CGI Federal Inc. COS at 6. Following its evaluation of quotations in phase two, DHS entered into exchanges with multiple vendors. COS at 13; AR, Tab 8b, Creal Exchange Letter. DHS reviewed the exchange responses and prepared an addendum to its initial evaluation report. *See* AR, Tab 9d, Technical Evaluation Team (TET) Report Addendum.

As relevant to the issues presented in Creal’s protest, the final ratings of Creal and Savantage are as follows:

	Creal	Savantage
Demonstrated Prior Experience and Reference Checks	Some Confidence	High Confidence
Technical Understanding & Capabilities	Some Confidence	Some Confidence
Management Approach	Some Confidence	Some Confidence
Oral Presentation	Some Confidence	Some Confidence
Price	\$100,555,952	\$111,525,886

AR, Tab 10, Best-Value Tradeoff Report at 5-6.

Following the TET’s evaluation of quotations and the business evaluation team’s evaluation of price, the agency conducted a best-value tradeoff analysis. *See id.* The source selection official (SSO) then conducted an independent review of the evaluation materials and determined that the issuance of seven BPAs was in the best interest of the agency; while Savantage and CGI were issued BPAs, Creal was not. AR, Tab 11,

Award Decision at 9. The agency notified firms of its award decision on November 25, 2020. COS at 19. After the agency's oral explanation of the decision on December 4, Creal timely filed this protest on December 7.

DISCUSSION

The protester marshals several challenges to the agency's conduct of the procurement. Creal contends that the agency's evaluation of its quotation under the demonstrated prior experience and reference checks, technical understanding and capabilities, and oral presentation factors was unreasonable and inconsistent with the terms of the solicitation. Protest at 11-20; Comments and Supp. Protest at 10-24. Moreover, Creal argues that DHS engaged in unequal treatment where it disparately evaluated Creal's and Savantage's quotations across multiple factors. Comments and Supp. Protest at 24-34. Finally, the protester alleges that DHS's tradeoff analysis was fundamentally flawed. Protest at 20-24; Comments and Supp. Protest at 34-38; Supp. Comments at 22-25. For the following reasons, we find no basis on which to sustain the protest.³

Demonstrated Prior Experience and Reference Checks

The protester challenges the agency's assignment of a rating of some confidence under the demonstrated prior experience and reference checks factor. Protest at 11-15; Comments and Supp. Protest at 10-16; Supp. Comments at 6-10. Creal principally advances two arguments, in this regard. First, the protester contends that the agency improperly discounted one of the firm's submitted prior experience references because the contract was currently being performed, despite language in the solicitation that advised that DHS would consider on-going projects. Protest at 11-13; Comments and Supp. Protest at 12-14. Second, the protester argues that its quotation warranted a rating of high confidence because, despite the agency's evaluation to the contrary, three

³ Creal raises other collateral allegations, and although our decision does not specifically address every argument presented, we have considered each argument and find that none provides a basis on which to sustain the protest. For example, the protester argues that the SSO failed to exercise independent judgment in determining with which firms the agency should establish BPAs, as he simply concurred with the agency's earlier evaluation. Comments and Supp. Protest at 40-42; Supp. Comments at 25-28.

Our Office, however, has previously concluded that a selection official may rely on evaluation reports provided by technical evaluators, *see HP Enter. Servs., LLC*, B-408825, Dec. 23, 2013, 2014 CPD ¶ 13 at 7, and that a selection official's statement that he read and accepted the analysis of others is sufficient to demonstrate that the selection decision represents the source selection authority's independent judgement. *See CR/ZWS LLC*, B-414766, B 414766.2, Sept. 13, 2017, 2017 CPD ¶ 288 at 14. Here, our review of the record supports the conclusion that the SSO made independent determinations that were reasonably supported. *See AR*, Tab 11, Award Decision; *AR*, Tab 14, SSO Decl. at 1-3. Accordingly, this protest ground is denied.

of its submitted references met and exceeded the RFQ's experience requirements. Protest at 13-15; Comments and Supp. Protest at 14-16; Supp. Comments at 6-10.

An agency has broad discretion when evaluating vendors' experience and past performance to determine whether a particular contract is relevant to an evaluation of experience. *Criterion Sys., Inc.*, B-416553, B-416553.2, Oct. 2, 2018, 2018 CPD ¶ 345 at 6. Our Office will examine an agency's evaluation of a vendor's experience only to ensure that it was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations, since determining the relative merit or relative relevance of a vendor's performance history is primarily a matter within the agency's discretion. *United Facility Servs. Corp. d/b/a EASTCO Bldg. Servs.*, B-408749.2, Jan. 17, 2014, 2014 CPD ¶ 35 at 4.

The solicitation instructed vendors to provide between two and four references, and identified two distinct sets of requirements. First, at least one reference was required to demonstrate experience from a vendor's subcontractor (if any) in "implementing enterprise-wide information technology systems for financial management, procurement management and contract writing, and asset valuation/management within an organization of a similar scale and complexity" to DHS or its components. AR, Tab 5c, RFQ amend. 2 at 2. Second, the references, as a whole, were required to:

- (1) demonstrate management and coordination of multiple support teams and subcontractor relationships that resulted in achieving quality performance under contracts/orders that were of a comparable size, scope and complexity to the requirement described in this solicitation;⁴
- (2) demonstrate the Quoter's experience in transitioning Government financial systems comparable in size, scope and complexity to the requirement described in this solicitation, and where different sub-units were transitioned at different times over a multi-year period;
- and (3) demonstrate experience integrating and supporting financial, asset valuation/management, and procurement and contract writing software suites.

Id. at 2-3. The solicitation permitted the submission of on-going projects to demonstrate experience, if at least one year of performance was completed, and the vendor "clearly describe[d] the stage that the project is at/what has been completed under performance to date." *Id.* at 3.

The agency assigned Creoyal's quotation a rating of some confidence under this factor. AR, Tab 9c, TET Report at 19. In so finding, the TET noted that three of the four submitted references "did not include integrating and supporting procurement management and contract writing software suites." *Id.* Moreover, the TET found that one of Creoyal's submitted references--for on-going performance on a Marine Corps

⁴ Comparability of size, scope, and complexity was to be evaluated in relation to the DHS financial system modernization information provided in the statement of work. AR, Tab 5c, RFQ amend. 2 at 3.

Community Services (MCCS) project--was of “lesser scope because much of [the] comparable services were planned to be performed in the future” and “[w]ork that had not yet been performed prior to quotation submittal was not considered to have been demonstrated.”⁵ *Id.* On balance, the TET found that Creoal demonstrated that it understood the requirement, proposed a sound approach, and would be successful in performing the task order with some government intervention, which was consistent with the solicitation’s definition of a rating of some confidence. *Id.*

After completing its phase two evaluation, the agency engaged in exchanges with Creoal, and asked “[h]ow is your narrative citing future planned work applicable to demonstrated prior experience?” AR, Tab 8b, Creoal Exchange Letter at 1. The protester replied that some elements of its transition had not happened by the quotation submission deadline, while others had. AR, Tab 8c, Creoal Exchange Responses at 2. The TET reviewed the response, and concluded that the submitted information confirmed the TET’s original observation that certain work had yet to be performed. AR, Tab 9d, TET Report Addendum at 6. Because the agency found that the protester only “partially met” the evaluation criteria for this reference, its original rating of some confidence remained unchanged. *Id.*

We find nothing objectionable in the agency’s evaluation conclusions or in its assignment of a rating of some confidence under this factor. First, while the protester is correct that the solicitation specifically allowed for the submission of on-going projects, those projects were required to demonstrate actual prior experience. See AR, Tab 5c, RFQ amend. 2 at 2. Here, the TET evaluated the MCCS reference, and considered the extent of Creoal’s current performance on the contract. See AR, Tab 9c, TET Report at 20-21 (finding that the MCCS project included one attribute that increased DHS’s confidence that the firm could perform the work); AR, Tab 13, Decl. of TET Chairs at 6 (“In Creoal’s case, the TET considered all four examples of [demonstrated experience], including the MCCS work.”).

While the TET credited the protester for work that had been performed on the MCCS contract prior to quotation submission, the TET also, however, reasonably determined that Creoal failed to demonstrate experience in transitioning government financial systems comparable in size, scope, and complexity because such work had yet to be performed on that contract. AR, Tab 13, Decl. of TET Chairs at 6. The TET’s conclusion is supported by the plain language of Creoal’s quotation, where the protester specifically provides that the firm had “begun the transition planning to go live into Production” and that it “will take place in 2020.” AR, Tab 8a, Creoal Technical Quotation at 13. Indeed, in its exchange response to DHS, Creoal confirmed that while it had developed a transition strategy, the actual transition had yet to occur. AR, Tab 8c, Creoal Exchange Responses at 2. The TET determined that these statements reflected the preparatory stages of transition, which, in its view, did not demonstrate “experience in transitioning” financial systems; we cannot conclude that the agency’s

⁵ Specifically, the TET found that MCCS’s transition was planned, but not actually executed, prior to the submittal of Creoal’s quotation. AR, Tab 9c, TET Report at 20.

conclusions were unreasonable, in this regard. See AR, Tab 13, Decl. of TET Chairs at 6-7.

In addition, the agency's conclusion that Creoyal's quotation failed to demonstrate experience in the enumerated areas established in the RFQ is similarly unobjectionable. As noted above, the TET found that three of the protester's four references did not satisfy all of the RFQ's evaluation criteria, specifically, that "the scope of work [for these three projects] did not include integrating and supporting procurement management and contract writing software suites." AR, Tab 9c, TET Report at 19. This conclusion is supported by the underlying record. As noted in the TET's declaration, Creoyal's quotation is bereft of clear references--much less an explanation of demonstrated experience--concerning this evaluation criteria for three of its four projects. AR, Tab 13, Decl. of TET Chairs at 9-10 (noting that in the two Marine Corps examples and in the Social Security Administration example, the protester failed to provide clear information concerning its experience in procurement management and/or contract writing).

While Creoyal's protest submissions attempt to paint its quotation as manifestly demonstrating all the evaluative elements under this factor, our review of the record supports the reasonableness of the agency's conclusions. The protester's disagreement with the agency's evaluation judgments, without more, does not establish that the evaluation was unreasonable. *DEI Consulting*, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. For example, while the protester argues that DHS should have understood a reference to "contract management" as necessarily encompassing "contract writing," such an inference is unreasonable, at least without further explanation. In this regard, it is a vendor's responsibility to submit a well-written quotation, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows for a meaningful review by the procuring agency. See *Applied Visual Tech., Inc.*, B-401804.3, Aug. 21, 2015, 2015 CPD ¶ 261 at 3. To the extent Creoyal's protest submissions now attempt to more clearly articulate its prior experience, our review is limited to the protester's quotation, as submitted. *Patriot Def. Grp., LLC*, B-418720.3, Aug. 5, 2020, 2020 CPD ¶ 265 at 9. As a result, this protest ground is denied.

Technical Understanding and Capabilities

The protester also challenges the agency's evaluation of its quotation under the technical understanding and capabilities factor, for which the agency assigned a rating of some confidence. Protest at 15-20; Comments and Supp. Protest at 16-23; Supp. Comments at 12-15, 18-20. In this regard, Creoyal chiefly alleges that DHS improperly determined that its quotation offered a single software solution, despite language in its quotation that, the protester asserts, demonstrated otherwise. Further, the protester contends that because the RFQ did not require vendors to demonstrate understanding and capabilities with respect to multiple software platforms, even if Creoyal leveraged only one software solution, the agency improperly applied unstated evaluation criteria by requiring vendors to show expertise across multiple platforms. Finally, the protester argues that despite providing information that addressed, in Creoyal's view, the agency's

concerns about the firm's software suite during exchanges, the agency unreasonably failed to adjust its initial evaluation of the protester's quotation accordingly.

Where, as here, an agency issues an RFQ to FSS contractors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. *Tech. & Telecomms. Consultants, Inc.*, B-413301, B-413301.2, Sept. 28, 2016, 2016 CPD ¶ 276 at 4. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. *Electrosoft Servs., Inc.*, B-409065 *et al.*, Jan. 27, 2014, 2014 CPD ¶ 252 at 4. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. *OPTIMUS Corp.*, B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 6.

As noted above, for the technical understanding and capabilities factor, vendors were required to "demonstrate their knowledge, understanding and capabilities of meeting the requirements" in the Statement of Work (SOW), and to "describe their proposed strategy and methods for conducting all required services in accordance with the DHS Systems Engineering Life Cycle (SELC) policy and guidebook." AR, Tab 5c, RFQ amend. 2 at 2-3. And, as relevant to this allegation, the statement of work informed vendors that among the objectives of the BPA was the integration and implementation of software suites, "for multiple systems in multiple host environments[.]" AR, Tab 5b, RFQ amend. 1 at 36.

Throughout its quotation, Creal touts its experience and knowledge of [DELETED]-based software systems. See AR, Tab 8a, Creal Technical Quotation at 28 ("Creal has adopted the [DELETED] as its industry best practice default methodology for deploying and maintaining enterprise applications and technologies."). Indeed, in evaluating the vendor's technical approach, DHS noted that Creal "demonstrated full knowledge and understanding of [DELETED]-based implementations[.]" aspects of which led to the agency having increased confidence that the firm could perform the requirements of the RFQ. AR, Tab 9c, TET Report at 42. However, the TET also had reservations about Creal's approach, specifically, that the vendor "described a vendor-specific methodology based on [DELETED]," and that "the quoter did not address other solutions and the methods that might apply more generally as required by the SOW." *Id.* at 43. Moreover, the TET noted that while the protester's quotation provided that Creal's subcontractors had experience outside of [DELETED], "there is no discussion in the narrative explaining how such expertise would be used." *Id.* Accordingly, the TET concluded that because the protester "[a]ddressed a single software suite solution rather than addressing multiple solutions and methods that might apply more generally to the BPA[.]" their proposed software specific methodology may not apply to other solutions, which lowers confidence in ability to integrate other solutions." *Id.*

Following its phase two evaluation, the agency, during exchanges, asked Creal how the firm's "software specific methodology [is] applicable to the potential of multiple

software solutions that may be required under” the BPA. AR, Tab 8b, Creal Exchange Letter at 1. In response, the protester stated that [DELETED] was not software specific, but instead, was “software agnostic” and was “applicable to the potential of multiple software solutions that may be required” under DHS’s requirement. AR, Tab 8c, Creal Exchange Responses at 3. Following its review of the submitted information, the “TET agreed with the position that it is possible to use [DELETED] for multiple software solutions[,]” but still concluded that its “concerns about the use of this approach remained unresolved.” AR, Tab 9d, TET Report Addendum at 10.

The protester raises several critiques of the agency’s evaluation under this factor, none of which we find persuasive. First, the protester argues that DHS failed to consider the express terms of Creal’s quotation, as the agency failed to account for its (and its team members’) understanding and capabilities with respect to multiple software suites. Comments and Supp. Protest at 16-20. The record belies the protester’s argument. As noted above, the TET’s evaluation specifically identified Creal’s subcontracting partners’ experience, though the TET expressed concern over the lack of narrative explanation concerning how that software expertise would be utilized. AR, Tab 9c, TET Report at 44. Further, as detailed in the TET’s declaration, the agency explains that it considered all the information provided by Creal in the technical understanding and capabilities section of its quotation, and understood the protester’s team as having experience predominately in [DELETED]. AR, Tab 13, Decl. of TET Chairs at 11 (stating that the TET credited Creal for its limited discussion of its referenced suite of applications--[DELETED]--but providing that “[t]he potential applicability of [DELETED] to implementing financial management suites other than [DELETED] was insufficient for demonstrating technical capability for implementing the range of anticipated suites[.]”).

The protester points to various portions of its quotation as proposing multiple software solutions, such as the cover letter to its quotation, the portion of its quotation concerning its management approach, and material presented during its oral presentation (the latter two being separately evaluated).⁶ Comments and Supp. Protest at 16-20. As

⁶ The protester, separately, challenges its evaluation under the oral presentation factor, arguing that because the agency found multiple aspects that increased the government’s confidence for successful performance, and none that decreased DHS’s confidence, Creal was entitled to a rating of high confidence. Protest at 19-20; Comments and Supp. Protest at 23-24. Although we do not discuss the underlying record (to include the separate nature of the agency’s evaluation under the oral presentation factor and the technical understanding and capabilities factor) in detail, here, we have reviewed the agency’s evaluation and find its conclusions unobjectionable. Agencies have considerable discretion in making subjective judgments about the technical merit of quotations, and a protester’s arguments that its quotation merited more heavily or significantly weighted strengths and higher adjectival ratings, reflect little more than the protester’s disagreement with an agency’s judgment, and, without more, do not provide a basis to sustain the protest. *Protection Strategies, Inc.*, B-416635, Nov. 1, 2018, 2019 CPD ¶ 33 at 8; *Construction Servs. Grp., Inc.*, B-412343.3, Feb. 27, 2017, 2017 CPD ¶ 76 at 4-5.

addressed above, because it is a vendor's responsibility to submit an adequately written quotation that establishes its technical capability and the merits of its proposed approach, see *Open System Science of Virginia, Inc.*, B-410572, B-410572.2, Jan. 14, 2015, 2015 CPD ¶ 37 at 8-9, an agency is not required to scour a vendor's quotation for information that a firm fails to adequately explain or present. See *Hi-Tec Sys., Inc.*, B-402590, B-402590.2, June 7, 2010, 2010 CPD ¶ 156 at 3. Moreover, while the protester asserts that its quotation did mention experience with various software platforms, merely stating so does not adequately describe how such expertise would be implemented. See AR, Tab 9c, TET Report at 43 (noting that there was "no discussion in the narrative explaining how such expertise would be used."). Accordingly, we find no basis upon which to conclude that the agency's evaluation, which was limited to the material presented in the section of Creal's quotation concerning its technical understanding and capabilities, was unreasonable.

We similarly disagree with the protester that the agency applied unstated evaluation criteria where it concluded that Creal's discussion of a single software solution decreased DHS's confidence in the firm's ability to complete the requirements of the BPA. *Id.* As explained by the agency, the solicitation made clear that because future software use was undetermined, a vendor would be required to provide support across multiple potential software solutions. Supp. Memorandum of Law (Supp. MOL) at 6-8; see AR, Tab 5b, RFQ amend. 1 at 36. And, as part of the evaluation, DHS would look to how vendors demonstrated their knowledge, understanding, and capabilities to meet the requirements of the RFQ, as well as how they described their strategy and methods for conducting required services. *Id.* at 64.

As such, while the TET did not require a particular number of software suites to be utilized by a vendor, it did consider the breadth of a vendor's approach; that is, the agency would have greater confidence in a vendor who could demonstrate knowledge, understanding, and capabilities across a range of potential software platforms that might be used by the agency in the future, than a vendor which did not. AR, Tab 13a, Second Decl. of TET Chairs at 4. While procuring agencies are required to identify significant evaluation factors and subfactors in a solicitation, they are not required to identify every aspect of each factor that might be taken into account; rather, agencies reasonably may take into account considerations, even if unstated, that are reasonably related to or encompassed by the stated evaluation criteria. *Client Network Servs., Inc.*, B-297994, Apr. 28, 2006, 2006 CPD ¶ 79 at 6. Here, DHS did not view Creal's approach, which predominately relied on [DELETED], as having sufficient breadth to warrant a rating of high confidence; such a finding, in our view, does not constitute an unstated evaluation criterion.

Creal also argues that DHS unreasonably failed to raise its confidence assessment under the technical understanding and capabilities factor following exchanges. In this regard, following its response to the agency's exchange question concerning the applicability of the firm's use of [DELETED] to multiple software solutions potentially required, see AR, Tab 8c, Creal Exchange Responses, at 2-4, DHS acknowledged that "it [was] possible to use [DELETED] for multiple software solutions." AR, Tab 9d,

TET Report Addendum at 10. The protester contends that because it addressed DHS's concern, it was entitled to an increase in its rating, to one of high confidence. The TET explains that while it did not disagree with Creoyal's assertion that [DELETED] can be used for multiple software platforms, the TET did disagree "with the assertion that application of the methodology can be made 'regardless' (*i.e.*, without regard to) the choice of software platform." AR, Tab 13, Decl. of TET Chairs at 12.

More specifically, the agency believed that though the use of [DELETED] as a universal methodology was feasible, such an approach presented risks to the government, as [DELETED] was not necessarily the best option for DHS's future needs, in all circumstances. *Id.* The agency concluded that Creoyal's [DELETED]-specific approach--while beneficial if the agency ultimately selected an [DELETED]-based software suite--was less suitable and presented more risk to the agency than an approach that would utilize multiple software options. AR, Tab 13a, Second Decl. of TET Chairs at 4. In this regard, an agency may always consider risk intrinsic to performance of the requirement as reflected by the stated evaluated factors, that is, risk that arises, for example, from the offeror's approach or lack of demonstrated understanding. *See Ridoc Enter., Inc.*, B-292962.4, July 6, 2004, 2004 CPD ¶ 169 at 7. We cannot find the agency's conclusions, and its decision to retain a rating of some confidence, to be unreasonable. This protest ground is denied.

Disparate Treatment

The protester also raises multiple allegations of disparate treatment concerning the agency's evaluation of Creoyal's and Savantage's quotations, across multiple evaluation factors. Comments and Supp. Protest at 24-34; Supp. Comments at 10-12, 15-18, 22-23. Creoyal argues that the awardee was found to have multiple aspects of its quotation that increased the agency's confidence of successful performance, but the protester was not given the similar credit for the same benefits. The protester contends that had the agency evenly evaluated the two vendors, Creoyal would have been issued a BPA.

It is a fundamental principle of federal procurement law that a contracting agency must treat all vendors equally and evaluate their quotations evenhandedly against the solicitation's requirements and evaluation criteria. *See Rockwell Elec. Commerce Corp.*, B-286201 *et al.*, Dec. 14, 2000, 2001 CPD ¶ 65 at 5. However, when a protester alleges unequal treatment in a technical evaluation, it must show that the differences in the evaluation did not stem from differences between the quotations. *See IndraSoft, Inc.*, B-414026, B-414026.2, Jan. 23, 2017, 2017 CPD ¶ 30 at 10; *Paragon Sys., Inc.; SecTek, Inc.*, B-409066.2, B-409066.3, June 4, 2014, 2014 CPD ¶ 169 at 8-9. Accordingly, to prevail on an allegation of disparate treatment, a protester must show that the agency unreasonably downgraded its quotation for aspects that were substantively indistinguishable from, or nearly identical to, those contained in other quotations. *See Office Design Group v. United States*, 951 F.3d 1366, 1372 (Fed. Cir. 2020); *Battelle Memorial Inst.*, B-418047.3, B-418047.4, May 18, 2020, 2020 CPD ¶ 176 at 5.

Here, based on our review of the record, Creoyal's allegations are either unsupported by the record, or mislaid given that any differences in the agency's assessment of quotations reasonably stem from differences in the quotations themselves, rather than unequal treatment.⁷ For example, the protester argues that under the demonstrated prior experience and reference checks factor, the agency credited Savantage (which received a rating of high confidence) for utilizing a cloud deployment model, but did not so credit Creoyal's quotation for the same feature. AR, Tab 9c, TET Report at 34. However, the record clearly demonstrates that the agency, in fact, credited Creoyal for its cloud deployment model, as well; this was the only overlapping strength assigned to both quotations.⁸ *Id.* at 21.

Additionally, DHS had increased confidence in Savantage's quotation based on one of the firm's references having "met all evaluation requirements as a standalone example (i.e., end-to-end lifecycle services), without having to aggregate partial examples across multiple contracts," and because another reference included work supporting a working capital fund. AR, Tab 9c, TET Report at 34. Despite the protester's lamentations of unequal treatment, the record demonstrates that these aspects were not included in Creoyal's quotation; instead, the TET found that "Creoyal and Savantage examples do not merit equivalent [a]ttributes" because they were materially different. AR, Tab 13a, Second Decl. of TET Chairs at 8 (noting that while both vendors offered one project that met all the evaluation criteria, Savantage's reference concerned larger and more complex work). Technical evaluators have latitude in assigning ratings, which reflect their subjective judgments of a quotation's relative merits. *Complete Packaging & Shipping Supplies, Inc.*, B-412392 *et al.*, Feb. 1, 2016, 2016 CPD ¶ 28 at 7. Given the substantive differences in their relative approaches, we find no reason to conclude that the DHS's judgments were unreasonable.

Best-Value Tradeoff

Creoyal also challenges the agency's best-value tradeoff analysis. Protest at 20-23; Comments and Supp. Protest at 34-36. Having already concluded that the agency's evaluation was not flawed or uneven, we find nothing unreasonable in the agency's analysis in comparing the technical aspects of Creoyal's and Savantage's quotations.

⁷ While we discuss only a few emblematic examples of unequal treatment raised by the protester, we have reviewed each of Creoyal's arguments and find that none provides a basis to sustain the protest.

⁸ Savantage received a rating of high confidence based on the TET's identification of three distinct attributes that increased the government's confidence, including the cloud computing related strength, and no offsetting attributes that decreased confidence. AR, Tab 9d, TET Report Addendum at 10. In contrast, Creoyal received a rating of some confidence based on only one assessed attribute that increased the government's confidence, the cloud computing related strength, as well as one attribute that decreased confidence. *Id.* at 6.

Moreover, we do not agree with the protester that the agency failed to properly consider price in its analysis. See Comments and Supp. Protest at 36-37. Our review of the record shows that the agency meaningfully compared the relative merits of the vendor's quotations, but determined the technical superiority of Savantage's quotation outweighed Creol's price advantage. See AR, Tab 10, Best-Value Tradeoff Report at 28 ("While Creol's total evaluated price of \$100.5M, is slightly lower than Savantage's price, Savantage's price is consistent with the benefits associated with their higher confidence rating under the most important evaluation factor of Demonstrated Prior Experience."). An agency may properly select a more highly-rated quotation over one offering a lower price where it has reasonably determined that the technical superiority outweighs the price difference. *Recogniti, LLP*, B-410658, Jan. 21, 2015, 2015 CPD ¶ 49 at 6. Accordingly, we find no basis to sustain the protester's challenge to the tradeoff decision.

The protest is denied.

Thomas H. Armstrong
General Counsel