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# Decision

**Matter of:** Brainerd Helicopters, Inc., d/b/a Firehawk Helicopters, Inc.

**File:** B-420950; B-420982; B-421019

**Date:** November 18, 2022

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Tyler Ellis, Esq., Department of Agriculture, for the agency.  
Kasia Dourney, Esq., and Alexander O. Levine, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Protest challenging the agency's use of a lowest-priced, technically acceptable evaluation scheme to procure requirements is denied where the record shows that the agency reasonably exercised its judgment in establishing the solicitation's source selection methodology.

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## DECISION

Brainerd Helicopters, Inc., doing business as Firehawk Helicopters, Inc., a small business of Leesburg, Florida, challenges the terms of request for proposals (RFP) Nos. 1202SA22R9203, 1202SA22R9201 and 1202SA22R9202, issued by the Department of Agriculture, Forest Service, for helicopter support services for wildland fire management. The protester argues that the solicitations improperly provide for awards to be issued on a lowest-priced, technically acceptable (LPTA) basis.

We deny the protests.

## BACKGROUND

The Forest Service has managed wildland fires on national forests and grasslands for over 100 years. Memorandum of Law (MOL) at 1.<sup>1</sup> To aid the effective management of

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<sup>1</sup> We note the arguments made by the parties were similar across all three protests and the records consist of nearly identical documents. Throughout this decision, where a particular argument has been raised only in a specific protest, we will identify the argument as it relates to that protest. Otherwise, where an argument has been

wildland fires, the agency needs aerial firefighting support to deliver water, cargo, and personnel to assist wildfire suppression activities across the United States. *Id.* at 2. In the summer of 2022, the agency issued three solicitations for contractor-operated and maintained helicopter support services (HSS) multiple-award contracts for type 1, type 2, and type 3 helicopter services.<sup>2</sup> *Id.* The contractors will support a wide array of the agency's missions, including fire suppression, fire monitoring, initial attack,<sup>3</sup> prescribed fire and aerial ignition, short-haul, rappel, law enforcement limited to non-threatening surveillance, reconnaissance, and other administrative and related resource activities. Agency Report (AR), Tab 13, RFP at 9.<sup>4</sup>

On June 28, 2022, the agency executed a written justification for its intended use of the LPTA selection method for the HSS multiple-award contract requirements, pursuant to the requirements of Federal Acquisition Regulation (FAR) section 15.101-2(c). AR, Tab 10, LPTA Justification. In that justification, the contracting officer approved the use of LPTA award processes, concluding that the solicitation clearly described the minimum requirements and that proposals exceeding the minimum technical or performance requirements would provide only minimal benefits to the agency. *Id.* at 1-2. The contracting officer also found that the technical proposals will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror's proposal versus a competing proposal. *Id.* at 2.

The agency issued the first RFP of the series on July 7, 2022, for type 3 HSS, under the provisions of FAR parts 12 and 15. Contracting Officer's Statement (COS) at 9; RFP at 262. The RFP for type 1 HSS followed on July 28, and the RFP for type 2 HSS was issued on August 23. Each of the three solicitations anticipate awards of multiple fixed-price, indefinite-delivery, indefinite-quantity (IDIQ) contracts for HSS. COS at 9. The

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repeated in all three protests, or where the same document has been produced in all three agency reports, we will cite to the agency report without specifying the particular protest.

<sup>2</sup> The three separate solicitations were for type 1, type 2, and type 3 helicopter services, respectively. See <https://www.nifc.gov/resources/aircraft/helicopters> (describing differences between the three types of helicopters used in wildfire suppression; specifically, differentiating between the largest, and fastest flying type 1 helicopters (able to transport up to 15 personnel); smaller, type 2 helicopters (able to transport 9 firefighters); and the smallest among the three, type 3 helicopters (able to carry 4-5 firefighters at a time)). The agency intends to acquire services for the operation of 38 type 1, 35 type 2, and 58 type 3 helicopters.

<sup>3</sup> Initial attack refers to actions taken by the first resources to arrive at a wildfire. *Global SuperTanker Servs., LLC*, B-414987, B-414987.2, Nov. 6, 2017, 2017 CPD ¶ 345 at 2 n.2.

<sup>4</sup> All citations to the RFP are to its conformed version, incorporating the original RFP and the six amendments.

IDIQ contracts will each have an ordering period consisting of a 1-year base and nine 1-year options. *Id.* The total estimated value for these services through 2032 is \$1 billion for both type 1 and type 3 helicopters, and \$1.5 billion for the type 2 helicopters. COS (B-420982) at 9; COS (B-421019) at 9; COS (B-420950) at 9.

The RFPs provide for IDIQ awards to be made to all responsible offerors whose proposals “conform to all solicitation requirements, meet the [t]echnically [a]cceptable standard for the non-price factors,” and whose prices are deemed fair and reasonable. RFP at 265. Offerors are advised that proposals will be evaluated on the basis of the following technical acceptability criteria: (1) mandatory documentation; (2) minimum aircraft payload (acceptability threshold for type of helicopter offered); (3) safety management system; (4) past performance; and (5) organizational experience. *Id.* All technical acceptability criteria will be assessed on an acceptable/unacceptable basis. *Id.* at 262-63. The past performance and the organizational experience criteria will also be evaluated on an acceptable/unacceptable basis. *Id.* at 264.

The solicitations state that price will be evaluated for reasonableness. *Id.* at 265. Offerors are required to complete a pricing workbook for each offered helicopter as well as provide other technical information. AR, Tab 14, Pricing Workbook. In the pricing workbook, offerors are to include their “government hourly flight rate” and a daily rate.

In addition to soliciting for the award of the base IDIQ contracts, and as relevant to this protest, the RFPs also set forth the ordering procedures for task orders to be competed among the base IDIQ contract holders. In this regard, the solicitations establish that the agency will compete two categories of task orders: “exclusive use” (EU) and “call when needed” (CWN) task orders.<sup>5</sup> RFP at 132-33. The solicitations also establish that the EU task orders will be awarded on an LPTA basis, pursuant to FAR section 15.101-2.<sup>6</sup>

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<sup>5</sup> For EU task orders, the contractor is furnishing services on an “exclusive use basis,” *i.e.*, the contractor is required to make its services exclusively available to the Forest Service during a specific period of time referred to as the mandatory availability period (MAP). RFP at 100. The contractor is guaranteed a daily availability rate for the duration of the MAP, as well as payment for actual use of the aircraft by the agency to conduct firefighting missions. Conversely, for CWN task orders, the contractor is furnishing services on an “as needed basis”; there is no guarantee the agency will place any orders and the contractor is not obligated to accept them. *Id.* at 99.

<sup>6</sup> For EU task orders, the agency will use additional technical requirements expecting to exceed the IDIQ technical acceptability thresholds to place the task orders. MOL (B-421019) at 8-9. In this regard, the RFPs provide that the government “reserves the right to modify the evaluation criteria for individual task orders.” RFP at 133. The solicitation advises that “the final evaluation criteria will be defined in the TORP [task order request for proposals],” and that “the government reserves the right to use the tradeoff process, as described at FAR subsection 15.101-1, if clearly indicated in the TORP.” *Id.*

On August 10, Firehawk filed a pre-award protest with our Office challenging the agency's use of an LPTA evaluation methodology for the task ordering procedures for the type 3 helicopter requirement. See Protest (B-420950), Aug. 10, 2022. That protest was soon followed by two others, concerning those procedures for type 1, and type 2 helicopters. See Protest (B-420982), Aug. 22, 2022; Protest (B-421019), Sept. 1, 2022.

## DISCUSSION

Firehawk argues that the solicitations improperly provide for the awards to be made on an LPTA basis, rather than via a tradeoff process, in violation of FAR section 15.101-2.<sup>7</sup> The protester contends that the LPTA evaluation scheme is not appropriate here because the RFPs fail to set uniform minimum requirements for the wide variety of helicopters sought in these procurements. Protest at 17-21. Firehawk also challenges the agency's conclusion that providing superior safety and performance would offer no value to the agency or to personnel involved in fire suppression efforts. *Id.* at 11-17. Finally, the protester argues that the agency's evaluation method will not allow the Forest Service to evaluate the "key factors" that comprise an offeror's total price, which, in turn, determine the actual price the agency will pay. *Id.* at 10-11. For the reasons discussed below, we find that the agency's decision to use LPTA award criteria for the awards was reasonable and consistent with applicable regulatory requirements.<sup>8</sup> We therefore find no basis to sustain the protest.<sup>9</sup>

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CWN task orders "will be placed with the [c]ontractor, when need, based on payload, helicopter configuration, helicopter/crew location, price, and urgency. The location of helicopter/crew at the time of the need, may take precedence over other factors, including price, when ordering helicopters." RFP at 133.

<sup>7</sup> The protester and the agency both appear to focus their arguments on the use of LPTA award procedures for the award of the IDIQ contracts while also at times addressing the provisions in the solicitations providing for use of LPTA procedures to award individual task orders.

<sup>8</sup> We note that the agency and protester appear to view the solicitations as providing for award of the IDIQ contracts on an LPTA basis. The solicitations, however, do not establish that the IDIQ contracts will be awarded to the firms with the lowest prices. Rather, the solicitations provide for evaluating firms for technical acceptability and making award to all firms with fair and reasonable prices. Because the parties did not address this issue and because we find no basis to question the agency's justification, we do not address it.

<sup>9</sup> Firehawk also raises other collateral arguments. Although we do not address every argument, we have reviewed them all and find no basis to sustain the protest. For

## Use of LPTA Source Selection Methodology

Firehawk asserts that the solicitations fail to comply with the recently revised legal requirements for use of the LPTA evaluation process as set out at section 15.101-2(c) of the FAR. Protest at 3-23; see *Lowest Price Technically Acceptable Source Selection Process*, 86 Fed. Reg. 3679, 3682 (Jan. 14, 2021). In response, the agency asserts that it has adequately described and documented the basis for using an LPTA evaluation, and that it has satisfied all of the criteria for use of an LPTA evaluation. COS at 9-29; MOL at 3-15. For the reasons discussed below, we conclude that the agency's rationale for using an LPTA award basis is reasonable.

As relevant to this protest, FAR section 15.101-2(c) contains six criteria, all of which must be satisfied by a solicitation that employs an LPTA evaluation method:

- (1) The agency can comprehensively and clearly describe the minimum requirements in terms of performance objectives, measures, and standards that will be used to determine the acceptability of offers;
- (2) The agency would realize no, or minimal, value from a proposal that exceeds the minimum technical or performance requirements;
- (3) The agency believes the technical proposals will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror's proposal versus a competing proposal;
- (4) The agency has a high degree of confidence that reviewing the technical proposals of all offerors would not result in the identification of characteristics that could provide value or benefit to the agency;

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example, the protester alleges that the RFPs' evaluation criteria are "extremely subjective," require the exercise of judgment, and as such, fail to meet the requirement of FAR section 15.101-2(c)(3). Protest at 21-24; see FAR 15.101-2(c)(3) (mandating that "the technical proposals will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror's proposal versus a competing proposal.").

Based on our review of the record, we see no merit to this contention. As the agency explains--and we agree--the solicitations sufficiently specified the requirements and parameters for the helicopters, and included extensive evaluation criteria to allow for an objective assessment to the maximum extent possible. MOL (B-421019) at 25. Accordingly, we conclude that the agency properly found that the technical evaluation criteria will require no, or minimal, subjective judgment, and we therefore deny this protest ground. See AR, Tab 10, LPTA Justification at 2.

- (5) The agency determined that the lowest price reflects the total cost, including operation and support, of the product(s) or service(s) being acquired; and
- (6) The contracting officer documents the contract file describing the circumstances that justify the use of the lowest price technically acceptable source selection process.

FAR 15.101-2(c). In addition, FAR section 15.101-2(d) includes a second limitation on the use of LPTA procedures, stating that “contracting officers shall avoid, to the maximum extent practicable, using the lowest price technically acceptable source selection process in the case of a procurement that is predominately for the acquisition” of certain items or services. As relevant here, the acquisition of helicopter support services for wildland fire management is not included in the list of excluded items or services.<sup>10</sup>

In general, the determination of a contracting agency’s needs and the best method of accommodating them are matters primarily within the agency’s discretion. *Crewzers Fire Crew Transp., Inc.*, B-402530, B-402530.2, May 17, 2010, 2010 CPD ¶ 117 at 3; *G. Koprowski*, B-400215, Aug. 12, 2008, 2008 CPD ¶ 159 at 3. While committed to an agency’s discretion, an agency’s determination of its needs must still be reasonable. See *Curtin Maritime Corp.*, B-417175.2, Mar. 29, 2019, 2019 CPD ¶ 117 at 11. The adequacy of the agency’s justification is ascertained through examining whether the agency’s explanation is reasonable, that is, whether it can withstand logical scrutiny. *Id.* A protester’s disagreement with the agency’s judgment concerning the agency’s needs and how to accommodate them, without more, does not establish that the agency’s judgment is unreasonable. *Chenega Fed. Sys., LLC*, B-414478, June 26, 2017, 2017 CPD ¶ 196 at 3. These standards also apply to decisions to adopt LPTA procedures. See, e.g., *Verizon Bus. Network Servs., Inc.*, B-418331.3 *et al.*, July 10, 2020, 2020 CPD ¶ 235 at 6 (finding the agency’s use of LPTA award criteria under Defense Federal Acquisition Regulation Supplement § 215.101-2-70 unobjectionable).

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<sup>10</sup> Section 15.101-2(d) of the FAR requires that contracting officers “avoid, to the maximum extent practicable,” using LPTA procedures for procurements that are “predominantly for the acquisitions” of certain items or services including “information technology services, cybersecurity services, systems engineering and technical assistance services, advanced electronic testing, audit or audit readiness services, health care services and records, telecommunications devices and services, or other knowledge-based professional services;” “[p]ersonal proactive equipment . . . or . . . [k]nowledge-based training or logistics services in contingency operations or other operations outside the United States, including in Afghanistan or Iraq.” *Id.* at (d)(1)-(d)(3).

The protester challenges the sufficiency of the agency's rationales as to whether the particular circumstances of these procurements permit the use of LPTA procedures. Based on our review of the record, we conclude that none of the protester's disagreements with the agency's judgements demonstrate that the use of LPTA award criteria is unreasonable here.

### Description of Minimum Requirements

Firehawk argues that the RFPs do not satisfy the requirement to describe the minimum requirements "comprehensively and clearly. . . in terms of performance objectives, measures, and standards that will be used to determine the acceptability of offers." Protest at 17-20; FAR 15.101-2(c)(1). In this regard, the protester alleges that "due to the tremendous variation in helicopters used" for HSS, the solicitation does not set out one uniform minimum standard for the performance or maintenance requirements, so that offerors can compete intelligently and on a relatively equal basis. Protest at 3. Instead, according to Firehawk, by requiring that the offered helicopters comply with the specific requirements of the helicopter's particular manufacturers, which vary greatly, the solicitations set out entirely different minimum standards for different helicopters, in violation of FAR section 15.101-2(c)(1). Protest at 17.

The contracting officer's LPTA justification memorandum found that the RFP's "minimum requirements [for all five technical acceptability criteria] . . . are defined . . . by standard[s] that can be evaluated objectively." AR, Tab 10, LPTA Justification at 1. The memorandum also noted that "these requirements have been stable for decades and are not expected to vary significantly from the current level." *Id.* The agency further explains that contrary to the protester's assertions, the RFPs provide general minimum requirements for all helicopters. MOL at 5. Moreover, the agency states that splitting the requirement into three separate solicitations, for three different types of helicopters, and with different types of payload categories will allow for proper apples-to-apples comparisons "between like performing helicopters," and ensure fair competition. MOL (B-421019) at 14. For example, the agency explains that its multi-category payload scale included in each of the solicitations resulted in 25 different payload categories for type 3 helicopters, 11 payload categories for type 2 helicopters, and 10 payload categories for type 1 helicopters. Supp. MOL (B-421019) at 3. Further, the agency explains that these requirements not only reflect the agency's needs to diversify its fleet of helicopters but also that they are based on historical data, extensive discussions with the industry, and firefighter customer satisfaction surveys. *Id.*

Relevant here, the solicitations include a schedule of items that lists helicopter requirements and host base locations. Specifically, section B.4 of the RFPs includes an extensive list of minimum helicopter requirements, differentiating between the three different types of helicopters. RFP 15-26. The solicitations also provide helicopter maintenance criteria and minimum helicopter payload specifications. *Id.* at 26-31. The RFPs repeatedly advise that the offered helicopters should comply with the specific mandatory requirements of the helicopter's particular manufacturer with respect to operation, maintenance, erosion inspection, and other items. Additionally, each solicitation includes multiple additional threshold requirements, represented in the

pricing workbooks for each of the three solicitations by line item, for each offered aircraft. See AR, Tab 14, Pricing Workbook.

Based on our review of the record, we find that the solicitations sufficiently set forth the agency's minimum requirements in terms of specific and identifiable requirements and standards for each type of helicopters. As noted above, the agency separated the requirement into three distinct solicitations, for each of the three different types of helicopter services, to allow for a better comparison between the differing levels of helicopter performance. Additionally, the agency created additional subcategories within each of the three helicopters types--for example, multiple different payload categories for type 1, type 2, and type 3 helicopters--so that the agency can compare the same type of offered aircrafts satisfying these specific requirements, and ensure fair competition. While the protester contends that there is no "one uniform" minimum standard for the helicopters, we note that FAR section 15.101-2(c)(1) applies to "minimum requirements," and the protester has not explained why all offerors must be subject to identical technical requirements. Importantly, all proposals will be evaluated as to whether they address the solicitations' technical requirements, and not as to any qualitative differences between offerors' proposals. As such, the RFPs provide sufficiently detailed information to allow offerors to compete intelligently and on a relatively equal basis.

Further, the ordering procedures for the task orders that will follow--under each respective IDIQ contract, for either type 1, type 2, or type 3 helicopters--and which will be competed, may provide for additional specific metrics that the agency could use to evaluate proposals. As the agency explains, the exclusive use task order solicitations, for example, "can be expected to have additional technical requirements" that will be detailed therein, ensuring proper comparison between similar make/model of helicopters. MOL (B-421019) at 8.

In sum, we find that the agency sufficiently described minimum helicopter requirements for the solicitations, and sufficiently established minimum threshold categories for different types of aircrafts to allow for proper evaluation. The protester's disagreements with the agency's judgement, without more, do not demonstrate that the use of LPTA award criteria here is unreasonable. See *Coast to Coast Computer Prods., Inc.*, B-419833.2, Sept. 28, 2021, 2021 CPD ¶ 321 at 7 (an agency may use LPTA award criteria in a solicitation where it clearly defines its minimum requirements in terms of specific and identifiable requirements and standards for each product); *CACI, Inc.-Fed.; Booz Allen Hamilton, Inc.*, B-413028 *et al.*, Aug. 3, 2016, 2016 CPD ¶ 238 at 12-13 (use of LPTA criteria is reasonable where the requirements were mature and there were no anticipated benefits from using a cost-technical tradeoff); *PDL Toll*, B-402970, Aug. 11, 2010, 2010 CPD ¶ 191 at 2 (an agency may use LPTA award criteria in a solicitation where it reasonably concludes a minimum level of technical performance satisfies its requirements). As such, this protest ground is denied.

No Value to Proposal Exceeding Minimum Requirements



Firehawk next argues that the agency's LPTA justification erroneously states that the "agency would realize no, or minimal, value from a proposal that exceeds the minimum technical or performance requirements." AR, Tab 10, LPTA Justification at 1-2; Protest at 11-16; see FAR 15.101-2(c)(2). The protester contends that because of "extreme safety risks" associated with performing the procured services, the agency, public, and firefighters will clearly benefit from a contractor exceeding the minimum requirements. Protest at 11. In this regard, Firehawk specifically disputes the agency's LPTA justification conclusions finding no additional benefits with respect to firms offering additional helicopter payload capabilities, superior safety management systems, or a more favorable past performance rating. *Id.* at 11-12.

The Forest Service responds that it has already "elevated the technical requirement[s] . . . to an unprecedented level," after extensive consultation with the industry, and that exceeding these standards would provide only minimal benefits to the agency. COS at 12; AR, Tab 10, LPTA Justification at 1-2. The agency maintains that the multiple-award task order contracts are "designed to acquire a combination of helicopter support services that satisfy the government requirement . . . ranging from firefighter, supply and water delivery and backhaul in many different fire behavior and terrain conditions." COS (B-421019) at 12. The agency adds that "Helicopter Program managers have thoughtfully distributed the exclusive use line items" and that helicopters with larger payloads, contrary to Firehawk's assertion, do not necessarily provide additional value to the agency. *Id.*

With respect to the safety management system, the agency asserts that it developed its safety standards for the requirements based on the standards set forth by the International Standard for Business Aircraft Operations and the appropriate Federal Aviation Administration (FAA) advisory circular.<sup>11</sup> *Id.* at 17. The Forest Service contends that it reasonably concluded that it would be "difficult to quantify" any additional benefits "over and above" the RFPs' already strict safety management requirements. COS at 16-17; AR, Tab 10, LPTA Justification at 1.

With respect to past performance, the protester argues that because the contractor will receive adjectival ratings related to the quality of its performance, the agency, by definition, must anticipate receiving benefit from a proposal by a firm with superior past performance.<sup>12</sup> Protest at 13. Firehawk also asserts that because future past performance assessments will consist of five adjectival ratings from exceptional to unsatisfactory, there exists a qualitative difference that must be reflected in the current proposal evaluation methodology. *Id.* The agency counters that our Office has rejected

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<sup>11</sup> See AC No. 120-92A, Management Systems for Aviation Service Providers (Aug. 12, 2010), available at [https://www.faa.gov/documentLibrary/media/Advisory\\_Circular/AC%20120-92A.pdf](https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC%20120-92A.pdf).

<sup>12</sup> According to the current requirement, the ratings of satisfactory, very good, and exceptional will be deemed as technically acceptable under the current LPTA evaluation methodology. MOL (B-421019) at 21.

similar arguments in the past, citing *Verizon Business Network Servs., Inc., supra* at 9. MOL (B-421019) at 21.

Based on the record before us, we see no merit in the protester's contention that offering additional helicopter payload capabilities necessarily provides additional benefits to the agency. Importantly, the record includes historical data concerning the agency's use of different payload categories for fiscal years 2015 through 2021, at multiple locations, which in our view properly substantiates the agency's needs for the current procurements. AR, Tab 18, Historical Helicopter Data. The protester's disagreement with the agency's judgement here, without more, does not demonstrate that it is unreasonable.

Similarly, we have no basis to question the agency's determination that providing additional safety management system components beyond the international business aircraft operations standards, and those established by the FAA--which were required by the RFPs--would be difficult to quantify. As the agency has reasonably explained, assessing the purported benefits of additional safety measures would be necessarily subjective as there seem to be no quantifiable measures of superior safety beyond those established by the appropriate aviation safety entities.

Finally, as to past performance, the agency explains given the high standards of technical performance and the controlled operational environment, differentiating between greater than acceptable levels of performance offers little or no benefit to the agency. AR, Tab 10, LPTA Justification at 1-2; MOL at 7. The agency also correctly points out that we have declined in the past to equate the assessment of a contractor's performance of a current requirement to whether the agency will receive a meaningful benefit from proposals that exceed the minimum past performance requirements. See *Verizon Business Network Servs., Inc., supra* at 9. In particular, we explained that the fact that a solicitation anticipates future evaluations of the awardee's performance of the contract specifications does not necessarily mean that the agency must find immediate value--here, in the technical evaluation--in a current proposal that offers to exceed the solicitation's technical specifications. *Id.* Agencies are not required to find merit in all aspects of an offeror's proposal that exceed the agency's requirements. *Battelle Mem'l Institute*, B-413570.3 *et al.*, May 23, 2017, 2017 CPD ¶ 174 at 6; *Trailboss Enters., Inc.*, B-415812.2 *et al.*, May 7, 2018, 2018 CPD ¶ 171 at 6.

Based on our review of the record, we find that the agency considered the requirements for the payload of proposed helicopters, the safety management system, and the assessment of past performance and reasonably found that potentially exceeding the minimum requirements in these areas will not provide more than a minimal additional value to the government. AR, Tab 10, LPTA Justification at 1-2; COS at 16-17. The protester's disagreement with the agency's judgement does not demonstrate that the use of an LPTA award methodology here is unreasonable.

## Price Determination

Finally, the protester argues that the agency's evaluation method does not allow the Forest Service to assess the key factors that comprise an offeror's total price, and thus determine the actual price of a particular offer. Protest at 10-11. In this regard, Firehawk alleges that the RFPs anticipate that the agency will only compare offerors' hourly rates and use the lowest hourly rate as the basis for award, instead of using the lowest evaluated price. *Id.* at 10.

The agency rejects these allegations and responds that it will properly determine the total evaluated price. Specifically, for the IDIQ contracts, the total evaluated price will be calculated based on appropriate technical components contained in the pricing workbook that offerors are to provide for each offered aircraft, and include their "government hourly flight rate" and the daily rate. MOL (421019) at 7. Based on that data, the agency will evaluate prices for reasonableness, and determine whether an offeror demonstrate understanding of the level of effort needed to successfully perform the required services. RFP at 265.

The agency also explains that for task orders, the total evaluated price will be comprised of the following components:

- the daily availability (offeror's daily rate multiplied by the guaranteed MAP);
- the flight cost (make model-specific flight rate multiplied by estimated flight hours); and
- extended costs estimates.

Supp. COS (421019) at 11. Extended costs estimates will be comprised of the following cost elements: extended standby costs (daily rate); the subsistence allowance (also a daily rate; both the standby rate and *per diem* will be multiplied by the minimum crew complement); and estimated other charges (an estimated lump sum to cover miscellaneous costs such as the need for a hangar or tie-down fees to avoid inclement weather, landing fees, etc.). *Id.*; AR, Tab 14, Pricing Workbook.

Agencies are required to consider cost or price to the government in evaluating competitive proposals. 41 U.S.C. § 3306(c)(1)(B); see *Kathpal Techs., Inc.; Computer & Hi-Tech Mgmt., Inc.*, B-283137.3 *et al.*, Dec. 30, 1999, 2000 CPD ¶ 6 at 9. While the agency may chose an appropriate method for the evaluation of cost or price in a given procurement, the agency must use an evaluation method that provides a basis for a reasonable assessment of the cost of performance under competing proposals. *Alliant Techsys., Inc.*, B-410036, Oct. 14, 2014, 2014 CPD ¶ 324 at 10.

Here, we find that the method chosen by the Forest Service to assess the offerors' costs of performance was reasonable. In this regard, the three solicitations properly take into account the three different types of procured helicopters; each of the RFPs also factors in additional relevant price components, including payload category estimates based on the agency's historic usage as well as other costs estimates. In our view, the solicitations thus seek the relevant information for performance of the HSS

requirement, which will, in turn, enable the agency to reasonably estimate its costs, and to the greatest extent possible, evaluate the price of the requirement. As such, the current price evaluation scheme provides an adequate basis to compare the cost to the government of the competing proposals. *Cf. CACI, Inc.-Fed.; Booz Allen Hamilton, Inc., supra* at 10.

The protester, in essence, argues that there are other price components that the agency should consider in conducting its total price evaluation. For example, Firehawk alleges that the agency should also include the “varying performance levels of the specific helicopters [within each type],” including the speed of helicopters and the payload capacity, “which can alter the time needed to complete performance under a contract.” Comments at 5.

We find that the protester merely speculates what other performance elements could impact the overall price analysis here. Firehawk fails to explain how such costs would impact the agency’s lowest price determination when it is purchasing its requirements using daily rates for fire suppression requirements that cannot be precisely determined at the time of award. Wildfires, by their nature, are unpredictable and when a contractor has been selected to provide helicopter support services for a period of days, weeks, or months, the precise distances to be traveled to perform the requirement cannot be assessed at the time of award. Thus, while there can be no absolute certainty that no other factors could affect an offeror’s total price or performance, we nevertheless find that the agency’s price evaluation method provides the source selection authority with a meaningful understanding of the cost or price implications in making its award decision. Accordingly, we conclude that the protester has failed to establish that the agency’s chosen price evaluation methodology precludes use of an LPTA source selection process, and deny this protest ground.

In sum, we find that the agency reasonably decided to use the LPTA evaluation method to meet the requirements. In this regard, the agency was able to clearly describe its minimum requirements, and properly determine that there was only minimal value in exceeding those requirements. In addition, the agency can reasonably determine the lowest evaluated price for those requirements. Accordingly, we find no basis to disagree with its use of the LPTA method for the procurements at issue.

The protests are denied.

Edda Emmanuelli Perez  
General Counsel