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## Decision

**Matter of:** Kako'o Spectrum Healthcare Solutions, LLC

**File:** B-421127.5; B-421127.6

**Date:** May 28, 2025

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### DIGEST

1. Protest that the agency unreasonably evaluated portions of the awardee's technical volume that exceeded page limitations is denied where the record shows the protester was not competitively prejudiced by the agency's waiver of the page limitations requirement.
  2. Protest that the agency unreasonably evaluated the awardee's technical volume is denied where the record shows the evaluation was reasonable and consistent with the terms of the solicitation.
  3. Protest that the agency should have assigned additional strengths to the protester's technical volume is denied where the record shows the agency reasonably exercised its discretion not to assign additional strengths.
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### DECISION

Kako'o Spectrum Healthcare Solutions, LLC (KSHS), a small business of Honolulu, Hawaii, protests the award of a contract to Cognito Systems, LLC, a small business of Newport News, Virginia, under request for proposals (RFP) No. M00264-22-R-0008, issued by the United States Marine Corps (USMC) for the services of certified athletic trainers and strength and conditioning specialists for the USMC's sports medicine and injury program (SMIP). The protester primarily asserts that the agency unreasonably evaluated proposals.

We deny the protest.

## BACKGROUND

The RFP, issued on August 2, 2022, sought to procure the services of certified athletic trainers and strength and conditioning specialists for the USMC's SMIP. Agency Report (AR), Tab 7, RFP amend. 0005, Performance Work Statement (PWS) at ¶¶ 1.2-1.3. SMIP was created to reduce injuries and lost workdays caused by musculoskeletal injuries. *Id.* The RFP anticipates that the trainers and specialists will provide state-of-the-art professional services to assist injured marines and accelerate their return to duty. *Id.*

The RFP, set aside for small businesses, contemplated the award of a fixed-price indefinite-delivery, indefinite-quantity contract to be performed over five 1-year ordering periods, with the option to extend the contract for an additional six months. AR, Tab 1, RFP at 73. Award would be made to the offeror whose proposal represented the best value to the government based on the following factors, listed in descending order of importance: management and staffing approach, past performance, and price. RFP amend. 0005 at 17-20. Offerors were to submit their proposals in four volumes, each with its own page limit. The volume for management and staffing approach, the only factor at issue here, had a 50-page limit. *Id.* at 14.

Under the management and staffing approach factor, the agency would evaluate each offeror's approach to meeting the PWS requirements. Specifically, the agency would evaluate the offeror's experience in managing similar programs and how the offeror would provide continuous, quality, and timely support. The agency would also evaluate the offeror's plan to locate, recruit, and retain athletic trainers and strength and conditioning specialists. This plan was to include an approach to mitigating competition from other firms seeking to hire the trainers and specialists. Finally, the agency would evaluate the offeror's operational plan for effective communication between the government and the offeror's employees. RFP amend. 0005 at 19. Under this factor, the agency would assign a rating of outstanding, good, acceptable, marginal, or unacceptable. *Id.* at 18.

The USMC received proposals from 11 vendors, including KSHS, the incumbent contractor, and Cognito. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 7. In September 2024, the agency conducted discussions with offerors and reevaluated proposals, including the technical and past performance volumes. *Id.* at 8. In its discussions letter to Cognito, the agency informed the firm that its management and staffing approach volume had been assigned three strengths and three weaknesses. The agency also asked Cognito to respond to three questions. AR, Tab 26, Cognito Discussions Letter at 1-2. Cognito responded to the questions in a document submitted as its final proposal revision (FPR). AR, Tab 11, Cognito's FPR. The agency determined that Cognito's management and staffing approach volume no longer had any weaknesses. AR, Tab 17, Technical Evaluations at 7-9. This round of

evaluations yielded the final ratings for the technical and past performance volumes. COS/MOL at 8. The agency made award to Cognito on November 14. *Id.*

On December 2, KSHS filed a protest with our Office challenging the award, asserting that the USMC misevaluated proposals, conducted misleading discussions, unreasonably failed to find that Cognito was not a responsible contractor, and made an unreasonable source selection decision. *Kako'o Spectrum Healthcare Solutions, LLC, B-421127.2, Jan. 6, 2025 (unpublished decision) at 1.* The agency chose to take corrective action, stating that it would review the evaluations and make a new source selection decision. *Id.* As a result of the agency's proposed corrective action, we dismissed the protest as academic on January 6, 2025. *Id.*

As part of the agency's corrective action, KSHS and Cognito were both invited to update their price volumes, but only KSHS submitted an updated price volume. COS/MOL at 9. The agency's finalized evaluation included the technical and past performance ratings from September 2024, and the reevaluation of KSHS's updated price from February 2025. The final ratings were as follows:

	KSHS	Cognito
<b>Management and Staffing Approach</b>	Good	Outstanding
<b>Past Performance</b>	Satisfactory	Satisfactory
<b>Price</b>	\$63,869,786	\$61,288,781

AR, Tab 22, Source Selection Decision Document (SSDD) at 2.

The agency made various findings and determinations for both proposals under the management and staffing approach factor. The agency determined that KSHS's proposal demonstrated a thorough approach to meeting the PWS requirements and a thorough understanding of the needs of the SMIP program. *Id.* at 3. The agency assigned KSHS's proposal one strength for its experience under the incumbent contract and assigned the KSHS proposal an overall rating of good. *Id.*

The agency determined that Cognito's proposal demonstrated an exceptional approach to meeting the PWS requirements and an exceptional understanding of the needs of the SMIP program. *Id.* The agency assigned Cognito's proposal three strengths. One strength was assigned for the firm's proposed [DELETED] and another strength was assigned for Cognito's experience staffing similar efforts for other Department of Defense organizations. *Id.* at 3-4. The agency assigned a third strength for Cognito's proposed [DELETED]. *Id.* The agency assigned Cognito's proposal an overall rating of outstanding. *Id.* at 3.

Regarding past performance, the agency determined that it had reasonable confidence that both offerors would successfully perform the contract. *Id.* The agency further noted that both offeror's prices were fair and reasonable. *Id.* In comparing the two proposals, the agency noted that Cognito's proposal was superior to KSHS's proposal under the management and staffing approach factor because it provided benefits that

KSHS's proposal did not. *Id.* at 5. Considering all this, the agency noted that the management and staffing approach factor was significantly more important than past performance and price, and that the first two factors were significantly more important than price when combined. As a result the agency determined that Cognito's proposal was the best value for the agency because of its superior technical approach and 4.2 percent lower price. *Id.* On February 5, the agency made award to Cognito and notified KSHS the same day. COS/MOL at 12. KSHS subsequently received a debriefing, and this protest followed.

## DISCUSSION

KSHS raises several challenges to the evaluation of proposals under the management and staffing approach factor. We have considered them all and find that none provide us with a basis to sustain the protest. We note at the outset that in reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. *Kupono Gov't. Servs., LLC*, B-421392.13, B-421392.14, Oct. 9, 2024, 2024 CPD ¶ 243 at 4.

### Evaluation of Cognito's Proposal

KSHS asserts that the agency unreasonably evaluated Cognito's management and staffing approach volume by improperly considering portions of the proposal that exceeded the page limits. Supp. Comments at 2-10. KSHS first points to Cognito's original proposal and asserts that it exceeded the page limit by one page and argues that this one page included information that informed part of the agency's evaluation. KSHS contends that, had the agency properly ignored this information in accordance with the page limit requirements, Cognito would have received a lower rating and KSHS would likely have received award. *Id.* at 2-7. KSHS next points to Cognito's FPR and asserts that it also exceeded the page limits. KSHS contends that Cognito supplied its revisions in a document separate from its original proposal and did not incorporate them into its original proposal, therefore including an additional six pages that exceeded the page limits. *Id.* at 7-9. KSHS argues that Cognito's FPR was what the agency relied on in assigning Cognito a rating of outstanding as its FPR cured the three weaknesses the agency had previously assigned. KSHS contends that had the agency properly ignored Cognito's FPR as exceeding the page limits, Cognito would have received a lower technical rating. *Id.*

The USMC responds that, even if it improperly considered the additional pages in both Cognito's original proposal and its FPR, then the agency essentially waived the page limit requirements and KSHS was not prejudiced by the waiver. The agency contends that KSHS was not prejudiced because KSHS's management and staffing approach volume was 20 pages below the page limit. As a result, the agency argues, KSHS cannot show that it would have altered its proposal to its competitive advantage had it been given the opportunity to respond to the altered requirements by adding five extra

pages to its proposal because it chose to submit a proposal that was already 20 pages under the limit. Supp. MOL at 6-7, 12-13.

The protester responds that this standard of prejudice is inapplicable. KSHS argues that the proper standard of prejudice is that had the agency excluded the extra pages, Cognito would not have been next in line for award and KSHS would likely have received the award, and therefore KSHS was competitively prejudiced. Supp. Comments at 9-10.

While we agree that the agency effectively waived the solicitation's 50-page limit for the management and staffing approach volume in evaluating Cognito's proposal, we find that the protester cannot demonstrate that it was prejudiced by the agency's waiver. In general, offerors must prepare their proposals within the format limitations set out in an agency's solicitation, including any applicable page limits. *DynCorp Int'l LLC*, B-411126.4, *et al.*, Dec. 20, 2016, 2017 CPD ¶ 333 at 14. Offerors that exceed a solicitation's established page limitations assume the risk that the agency will not consider the excess pages. *Id.* However, an agency may waive compliance with a material solicitation requirement, such as page limitations, in awarding a contract if the award will meet the agency's actual needs without prejudice to other offerors. *DRS Network & Imaging Sys., LLC*, B-413409, B-413409.2, Oct. 25, 2016, 2016 CPD ¶ 315 at 9; *LASEOD Group, LLC*, B-405888, Jan. 10, 2012, 2012 CPD ¶ 45 at 5.

The solicitation required that offerors submit management and staffing approach volumes that were no more than 50 pages in length. RFP amend. 0005 at 14. Cognito's original management and staffing approach volume is 51 pages long based on the Adobe PDF pagination, which includes every page in the volume, starting with the cover page. AR, Tab 8.1, Cognito's Management and Staffing Approach Volume at 1-51. Based on the Adobe PDF pagination, page 1 of the volume is the cover page with no substantive information on it and page 51 of the volume includes some substantive information of Cognito's approach. *Id.* at 1, 51.

Cognito's response to the discussions letter, submitted as its FPR, consists of six pages in total according to the Adobe PDF pagination. Four of these pages include Cognito's response to the three questions raised by the agency. AR, Tab 11, Cognito's Final Proposal Revisions at 2-5. Cognito's response does not state that these pages replace pages in its original proposal, and Cognito did not submit a revised proposal including these new pages, but rather submitted these pages in response to the discussions letter. *Id.* at 1. The solicitation did not provide any information regarding page limitations for FPRs. Additionally, while the discussions letters stated that responses would be "incorporated into [offerors'] Final Proposal Revisions," the discussions letters did not state that revisions were not subject to the solicitation's page limits. AR, Tab 26, Cognito Discussions Letter at 1-2.

As a result, based on our review of the record, we conclude that the agency effectively waived the management and staffing approach volume page limit of 50 pages for Cognito's original proposal and its FPR. The agency allowed Cognito an additional five

pages in total beyond the limit – 1 from its original proposal, and 4 from its FPR, effectively waiving the requirement regarding page limitations. However, this waiver does not provide a basis to sustain the protest.

Competitive prejudice is an essential element of a viable protest; and where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest. *DRS, supra* at 10. In this regard, even where an agency waives a material solicitation requirement, our Office will not sustain the protest unless the protester can demonstrate that it was prejudiced by the waiver, *i.e.*, where the protester would have altered its proposal to its competitive advantage had it been given the opportunity to respond to the altered requirements. *Id.*; *Cerner Corp.*, B-293093, B-293093.2, Feb. 2, 2004, 2004 CPD ¶ 34 at 7 n. 7. In cases where the protester argues that an agency waived a certain requirement, prejudice does not mean that, had the agency failed to waive the requirement, the awardee would have been unsuccessful. *LASEOD, supra*. Rather, the pertinent question is whether the protester would have submitted a different offer that would have had a reasonable possibility of being selected for award had it known that the requirement would be waived. *Id.*

KSHS's original management and staffing approach volume was 31 pages based on the Adobe PDF pagination. AR, Tab 5.1, KSHS's Management and Staffing Approach Volume at 1-31. Its FPR only affected its price volume, which had no page limitations. RFP amend. 0005 at 14; AR, Tab 25, KSHS Discussions Letter at 1. As a result, KSHS's final page count for its management and staffing approach volume was 31 pages, which is 19 pages below the 50-page limit. In order for KSHS to be prejudiced by the agency's waiver of page limits for the management and staffing approach volume, KSHS would have needed to demonstrate how it would have altered its volume to its competitive advantage had it been aware that it could use an additional five pages. As KSHS's volume is 19 pages below the limit, KSHS has not argued and cannot show it would have made use of an additional five pages to its competitive advantage. Thus, the protester cannot demonstrate that it was prejudiced by the agency's waiver, and we deny this aspect of KSHS's protest. *Cerner, supra*; *LASEOD, supra*.

KSHS next argues that the agency unreasonably evaluated Cognito's management and staffing approach volume because it did not document whether Cognito's approach to locating, recruiting, and retaining athletic trainers met the solicitation's requirements. KSHS also argues that even if the USMC had documented this aspect of the proposal, its conclusion that Cognito's approach met this requirement is unreasonable because Cognito is using the same approach that was negatively rated in one of its past performance references. Comments & Supp. Protest at 7-8; Supp. Comments at 10-12.

The USMC responds that the record is sufficiently documented because it conducted its evaluation in accordance with the RFP's terms, and specifically noted any strengths, weaknesses, and significant weaknesses, and the rationale for them. Supp. MOL at 14. The agency further asserts that it was not required to document proposal content that simply met criteria as agencies are not required to document every detail of their

evaluations. The agency also contends that KSHS has not argued or demonstrated that Cognito's technical volume does not meet the requirement regarding recruitment and retainer, but rather argues only that the agency should have evaluated Cognito's proposal in a manner inconsistent with the solicitation criteria—that is, by considering past performance ratings in the technical evaluation. *Id.* at 15-16.

We find that the record is sufficiently documented. While an agency's evaluation judgment must be documented in sufficient detail to show it is not arbitrary, a failure to discuss every detail regarding the relative merit of a proposal in an evaluation decision document does not affect the validity of the evaluation. *Artek Constr. Co.*, B-418657, B-418657.2, July 17, 2020, 2020 CPD ¶ 285 at 9 n.14 (denying protester's argument that the agency failed to document its evaluation where the evaluation did not detail why a portion of the protester's proposal was inadequate because agencies are not required to discuss every detail of the relative merit of a proposal). Additionally, as noted below, post-protest explanations that fill in previously unrecorded details will generally be considered in our review of the rationality of selection decisions, so long as those explanation are credible and consistent with the contemporaneous record. *Id.*

The RFP required that offerors provide a "plan to locate, recruit, and retain athletic trainers and strength conditioning coaches who meet or exceed the minimum standards." RFP amend. 0005 at 15, 19. In its technical evaluations, the agency noted strengths and weaknesses and cited to the portions of proposals supporting those assessments. The agency also included a paragraph summarizing its findings for each proposal. AR, Tab 17, Technical Evaluations at 4-13. The agency only notes portions of proposals that merited strengths or demonstrated weaknesses and did not take note of portions that simply met requirements. Supp. COS/MOL at 4, 14.

Regarding Cognito's proposal, the agency noted the portions that merited strengths and displayed weaknesses.<sup>1</sup> The agency summarized its view of Cognito's proposal in a paragraph, noting that it had an exceptional understanding of the requirements, excellent experience, and the agency expected Cognito could successfully perform the contract. AR, Tab 17, Technical Evaluations at 4-7. During the development of the protest, the agency supplied additional statements from the contracting officer and the technical evaluation team (TET) chair to support these findings. Again, post-protest explanations that fill in previously unrecorded details will generally be considered in our review of the rationality of selection decisions, so long as those explanation are credible and consistent with the contemporaneous record. The contracting officer explains that the TET was to review the entirety of each proposal, but only document portions that exceeded the requirements or failed to meet them. Supp. COS/MOL at 3-4. The contracting officer also states that the absence of any discussion about a particular requirement meant the offeror's proposal met that requirement. *Id.* at 4. The TET chair also states that if a proposal met a requirement but did not exceed it, the TET did not note it. AR, Tab 28, TET Chair Declaration at 1.

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<sup>1</sup> The technical evaluation notes how these weaknesses were cured following FPRs. AR, Tab 17, Technical Evaluations at 7-9.

Here, the record shows that the agency considered the contents of each proposal and documented its evaluation. In this regard, the agency's post-protest conclusions are reasonable and consistent with the underlying record. The protester is incorrect that the agency failed to document its evaluation simply because it utilized a methodology of documenting only the portions of proposals that exceeded or failed to meet requirements and making no notations on portions that met requirements. As a result, the protester has not shown that the agency failed to document its findings. *Konica Minolta Bus. Sols. USA, Inc.*, B-418800, B-418800.2, Sep. 4, 2020, 2020 CPD ¶ 292 at 6 n.4 (explaining that the agency's choice not to document all determinations of adequacy did not render the evaluation unreasonable or inadequately documented). In addition, we are not persuaded by the protester's argument that the agency should have considered Cognito's past performance information as part of its technical evaluation. The RFP did not require such consideration, and the protester does not identify any portion of the RFP that supports its argument.

#### Evaluation of KSHS's Proposal

KSHS argues that the agency should have assigned its management and staffing approach volume six additional strengths. We have reviewed all KSHS's arguments and find that it has not demonstrated that the agency was unreasonable in exercising its discretion not to assign additional strengths. We address three examples below.

KSHS first asserts that its proposal should have been assigned a strength for its "unparalleled experience with the required work structure, including utilizing its experienced [human performance] program manager." Supp. Comments at 14. The agency responds that KSHS already received a strength for its experience, and there was no reason to assign an additional strength. AR, Tab 28, TET Chair Declaration at 1. The protester counters that the agency did not address its program manager's experience specifically, which merited a strength by itself, and therefore the agency has conceded this issue. Supp. Comments at 14.

We are not persuaded. The agency's response addressed KSHS's experience as the incumbent contractor, which would extend to its program manager's experience. *Compare* Comments & Supp. Protest at 9 (asserting that the protester's proposal exceeded requirements with "unparalleled experience with the required work structure, including utilizing its experienced [human performance] program manager") *with* AR, Tab 28, TET Chair Declaration at 1 (stating that "KSHS was provided a strength for experience. This proposal feature addresses incumbency and experience . . . on the previous SMIP contract. No additional strength was distinguished in this proposed feature.").

Second, the protester's argument rests on a misunderstanding of the standard we apply when determining whether an agency reasonably exercised its discretion not to assign a strength. The protester implies that because its experience exceeded the requirements, it is necessarily entitled to a strength. This is incorrect. An agency's judgment of

whether to assess unique strengths is a matter within the agency's discretion and one that we will not disturb where the protester has failed to demonstrate that the evaluation was unreasonable. *APC Constr., LLC*, B-419771, July 13, 2021, 2021 CPD ¶ 258 at 8. It is up to the agency to determine whether an offering, even one that exceeds the requirements, merits a strength so long as the agency's decision has a reasonable basis. The protester does not challenge the agency's assertion that its experience was already accounted for and neither does the protester demonstrate how the agency's decision not to assign a strength was unreasonable. As a result, the protester's argument amounts to disagreement with the agency's decision which does not provide a basis to sustain the protest. *APC, supra* at 10; *The Ginn Group., Inc.*, B-420165, B-420165.2, Dec. 22, 2021, 2022 CPD ¶ 17 at 9.

KSHS next asserts that it should have received a strength for proposing an "uninterrupted transition in 15 days or less" at the start of contract performance. Supp. Comments at 15. The agency responds that this offering did not merit a strength because the awardee is required to commence performance on the performance start date, and the agency viewed this offering as KSHS simply affirming that it would meet the requirement. AR, Tab 28, TET Chair Declaration at 3. The protester responds that its transition timeline is nevertheless clearly a benefit to the agency. Supp. Comments at 15. KSHS has not demonstrated that the agency's evaluation was unreasonable. The firm's response that this offering is a benefit does not demonstrate that the agency has been unreasonable, but simply expresses disagreement with the agency's judgment, which as stated above, does not provide us with a basis to sustain the protest. *The Ginn Group, supra*. As a result, we deny this protest allegation.

Finally, KSHS asserts that it should have been assigned a strength for its compensation and comprehensive benefits package because its package identifies specific benefits that provide "an edge in hiring." Supp. Comments at 16. The agency responds that this feature in the KSHS proposal does not warrant a strength because it does not exceed the RFP's requirements or add value. The agency explains that developing appropriate compensation and benefit packages to retain the workforce is the responsibility of an employer, and KSHS's offering meets the requirements but does not merit a strength. AR, Tab 28, TET Chair Declaration at 3. KSHS responds that its packages did merit a strength because its specific offerings provide KSHS a competitive edge. Supp. Comments at 16.

While KSHS argues that these offerings provide it a competitive edge, KSHS has failed to show that the agency unreasonably failed to assign its proposal a strength in this area. The RFP stated several times that offerors were to describe approaches that

demonstrated how they would retain talented staff and mitigate competition from other firms for staff, RFP amend. 0005 at 15, 19. The agency argues that the protester's proposal met the RFP's requirements and KSHS has not otherwise asserted or established that its offering exceeds these requirements. As a result, the protester has provided no basis to find that the agency was unreasonable in exercising its discretion not to assign KSHS's proposal a strength.<sup>2</sup>

The protest is denied.

Edda Emmanuelli Perez  
General Counsel

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<sup>2</sup> KSHS asserts that the best-value determination is flawed because of the alleged flaws in the evaluation. Where other challenges to an evaluation of quotations have been denied or otherwise dismissed, a challenge to the best-value determination based on those allegations does not afford a basis to sustain the protest. *Facility Servs. Mgmt., Inc.*, B-422259.2, Sept. 24, 2024, 2024 CPD ¶ 233 at 7. Here, we have denied all the protester's other challenges to the evaluation of proposals therefore its challenge to the best-value determination on those bases is dismissed.