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**Comptroller General  
of the United States**

**United States General Accounting Office  
Washington, DC 20548**

**DOCUMENT FOR PUBLIC RELEASE**

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## **Decision**

**Matter of:** U-Tech Services Corporation; K-Mar Industries, Inc.

**File:** B-284183.3; B-284183.4

**Date:** October 6, 2000

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Michael A. Gordon, Esq., Holmes, Schwartz & Gordon, for U-Tech Services Corporation, and Marilyn H. David, Esq., for K-Mar Industries, Inc., the protesters. Theodore M. Bailey, Esq., and Jonathan M. Bailey, Esq., for Data Monitor Systems, Inc., an intervenor.

Gregory H. Petkoff, Esq., Department of the Air Force, for the agency.

Scott H. Riback, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### **DIGEST**

Protests that agency misevaluated proposals are denied where record shows that agency's assessment of offerors' proposed staffing, past performance and differing technical approaches was reasonable; protesters' disagreement with evaluation results, without more, does not establish that evaluation was unreasonable.

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### **DECISION**

U-Tech Services Corporation and K-Mar Industries, Inc. protest the award of a contract to Data Monitor Systems, Inc. (DMS) under request for proposals (RFP) No. F34650-99-R-0044, issued by the Department of the Air Force for visual information, information management, communications electronics maintenance and technical order maintenance services at Tinker Air Force Base. The protesters assert that the agency misevaluated proposals and made an unreasonable source selection decision.

We deny the protests.

### **BACKGROUND**

The solicitation sought fixed-price offers to perform various skilled services. The solicitation did not require any particular staffing configuration, but instead relied on offerors to propose staffing (outlined in organizational charts) adequate to meet the RFP's performance work statements and quality control plan requirements.

Proposals were to be evaluated under three factors: mission capability, past performance/proposal risk and price/cost. Past performance/proposal risk and mission capability were identified as equal in importance. The mission capability factor included four subfactors, listed in descending order of importance: manpower, program management, subcontractor and/or teaming support capability, and quality control. The technical factors combined were more important than price/cost. Award was to be made to the firm submitting the proposal deemed to offer the government the best overall value considering cost/price and the technical evaluation factors.

The Air Force received several proposals, and after initially evaluating them, engaging in discussions and soliciting initial and second final proposal revisions (FPR), made award to DMS as the firm offering the best overall value to the government. Original Source Selection Decision Document, Nov. 9, 1999. After being advised of the award decision, U-Tech and K-Mar filed protests in our Office (B-284183, B-284183.2) alleging various improprieties in the evaluation and source selection. Subsequently, U-Tech, K-Mar and the Air Force entered into a settlement agreement, under the terms of which the Air Force agreed to take corrective action, including replacing the evaluators, contracting officer and source selection official; the agency then would reevaluate the proposals without holding discussions or permitting revisions, and make a new source selection decision. Agency Report, exh. 4, Settlement Agreement. Based on the Air Force's proposed corrective action, U-Tech and K-Mar withdrew their protests.

The agency put new evaluators in place and replaced the contracting officer and source selection official with a single individual. The agency identified deficiencies in the proposals that necessitated opening limited discussions and proposal revisions, notwithstanding the terms of the settlement agreement. These revised proposals—referred to by the agency as “conformed” proposals—were scored by the new evaluators.<sup>1</sup> Performance Risk Assessment Group (PRAG) Report, Apr. 5, 2000, at 2. The evaluation results were as follows:<sup>2</sup>

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<sup>1</sup> For the subfactors listed under the mission capability factor, the agency assigned adjectival/color ratings of either blue/exceptional, green/acceptable, yellow/marginal or red/unacceptable, and risk ratings of either high, moderate or low. In the area of past performance/performance risk, single adjectival ratings of either exceptional/high confidence, very good/significant confidence, satisfactory/confidence, neutral/unknown, marginal/little confidence or unsatisfactory/no confidence were assigned.

<sup>2</sup> We show the evaluation results for only the protesters and the awardee. Although there were two other offerors, the evaluation results for those firms are irrelevant to the protests.

| EVALUATION AREA           | DMS Rating/Risk             | U-Tech Rating/Risk          | K-Mar Rating/Risk                       |
|---------------------------|-----------------------------|-----------------------------|---|
| MISSION CAPABILITY        |                             |                             |   |
| Staffing                  | Green/Low                   | Green/Low                   | Green/Low                               |
| Program Mgmt.             | Green/Low                   | Green/Low                   | Green/Moderate                          |
| Teaming Support           | Green/Low                   | Green/Low                   | Green/Low                               |
| Quality Control           | Green/Low                   | Green/Low                   | Green/Low                               |
| PAST PERF./<br>PERF. RISK | Satisfactory/<br>Confidence | Satisfactory/<br>Confidence | Very Good/<br>Significant<br>Confidence |
| PRICE                     | [deleted]                   | [deleted]                   | [deleted]                               |

Proposal Analysis Report (PAR) at 3. On the basis of these evaluation results, the agency again made award to DMS as the offeror submitting the best value proposal. Source Selection Decision Document at 2-4. These protests followed.

#### THE SETTLEMENT AGREEMENT

Both protesters allege that the Air Force breached the settlement agreement entered into between the parties at the time of the earlier protests. Among the numerous arguments the protesters make in this regard, K-Mar contends that consolidating the functions of the contracting officer and source selection authority into a single individual violated the agreement; U-Tech argues that reopening discussions violated the agreement. According to the protesters, since they relied on the terms of the settlement agreement in deciding to withdraw their initial protests, the agreement should be enforced.

The agency's alleged violation of the settlement agreement is not a valid basis of protest. Our bid protest jurisdiction is limited to deciding protests "concerning an alleged violation of a procurement statute or regulation." 31 U.S.C. § 3552 (1994). Thus, in cases such as this, we will not consider an argument concerning compliance with a settlement agreement except to the extent the protester asserts that an alleged breach resulted in a prejudicial violation of procurement laws or regulations. American Marketing Assocs., Inc--Recon., B-274454.4, May 14, 1997, 97-1 CPD ¶ 183 at 2-3. Neither protester here has shown that the agency's alleged breach of the settlement agreement resulted in a violation of procurement laws or regulations and, further, there is no basis for finding that either protester was prejudiced by any failure by the agency to abide by the agreement terms.<sup>3</sup> The protesters' reliance on

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<sup>3</sup> While the protesters assert that they withdrew their original protests in reliance on the agreement, this action on their part actually had no practical effect. In this  
(continued...)

the agreement in no way precluded them from pursuing arguments concerning the reevaluation; we will review the new protests to the extent the protesters assert that the reevaluation--the only evaluation relevant here--was inconsistent with procurement statutes, regulations or the terms of the solicitation, or was otherwise improper. See generally Dellew Corp., B-284227, Mar. 13, 2000, 2000 CPD ¶ 52 at 4.<sup>4</sup>

The protesters raise numerous arguments relating to the propriety of the agency's evaluation of proposals. We have considered all of the arguments and find them to be without merit. We address the most significant contentions below.

## THE K-MAR EVALUATION

### K-Mar's Technical Proposal

K-Mar challenges several aspects of the agency's evaluation of its technical proposal. (K-Mar also challenges its past performance evaluation, which we discuss separately below.) K-Mar specifically asserts that the agency improperly failed to recognize several strengths of its technical proposal. We note that K-Mar's assertions reflect its view that its proposal was superior--and thus should not have been rated equal--to DMS's in several areas. However, as the agency correctly points out, it was required to evaluate the proposals, not against each other, but against the evaluation criteria included in the RFP. Federal Acquisition Regulation (FAR) §15.608. Thus, while

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regard, the agency's agreement to reevaluate the proposals had the effect of nullifying the original evaluation and source selection, and thus rendered the protesters' arguments concerning the original evaluation academic; we would have dismissed the protests on this basis had the protesters not withdrawn them.

<sup>4</sup> Both protesters also allege that the agency was biased in its reevaluation of proposals and, in support of this allegation, have tendered a document--referred to as the "watcher" e:mail--that allegedly was drafted by one of the original evaluators and purports to describe irregularities in the original evaluation. The protesters maintain that this document provides reason to believe that the reevaluation was similarly biased. This argument is without merit. The document is of dubious origin--there is no way to tell who sent it to the protesters or, for that matter, whether it has any degree of authenticity--and, in any case, since it describes alleged irregularities in the original evaluation, has no bearing on the propriety of the current evaluation performed by an entirely new group of evaluators.

K-Mar may believe it offered features beyond those offered by DMS or beyond the RFP requirements, those features would warrant a higher rating only to the extent that they provided a material benefit to the agency as measured against the evaluation factors. The record supports the agency's position that it reasonably concluded that K-Mar's proposal did not exceed the requirements of the RFP in a way beneficial to the government, and that K-Mar was not entitled to a higher rating. We discuss two illustrative examples below.

Offerors were required to provide a list of proposed equipment they would use in support of the solicitation's visual information services requirement. RFP at 44. While the RFP advised that the agency had on-hand a combination of digital and analog equipment sufficient to perform the requirements of the contract, it also provided that offerors were free to propose using their own analog or digital equipment. RFP amend. No. 4, Question No. 40, Offerors' Questions and Answers. In response, K-Mar proposed to use what it describes as "state-of-the-art" digital equipment that it intended to purchase for performance. K-Mar contends that its proposed use of this digital equipment was a strength that the agency improperly failed to recognize in the evaluation.

The agency explains that it did not give K-Mar evaluation credit for the additional digital equipment because using that equipment instead of the agency's on-hand equipment would not provide any benefit to the agency. We find the agency's position reasonable and consistent with the RFP. The RFP expressly provided that it was not relevant whether the offerors proposed to use digital versus analog equipment and that the agency's concern was solely that the services called for under the RFP be provided. RFP amend. No. 4, Question No. 59, Offerors' Questions and Answers. While K-Mar disagrees with the agency's position, it has directed our attention to nothing in its proposal—and we find nothing—demonstrating that use of the proposed equipment would materially enhance its ability to meet the agency's requirements. We conclude that the evaluation in this area was reasonable.<sup>5</sup>

Turning to a second example, the RFP called for the contractor to operate the base postal service center, and provided that the contractor may close the center from 10-11 a.m. to allow the contractor's employees to take a lunch break. K-Mar contends that it was not given evaluation credit for its proposal to keep the postal center open during this time. The agency responds that this was not viewed as an enhancement that warranted a higher proposal rating because, as a practical matter, most users of the facility would be using it during their own lunch hour, which typically does not commence until 11:30 a.m. Again, while K-Mar disagrees with the agency's position, we find the Air Force's explanation reasonable. The evaluation in this area, therefore, also was unobjectionable.

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<sup>5</sup> U-Tech raises essentially the same argument in its protest. For the reasons discussed, we also find no merit to this aspect of its protest.

## K-Mar's Past Performance Rating

K-Mar contends that the Air Force misevaluated its past performance. The focus of K-Mar's argument is the agency's assignment of "relevancy" ratings under the past performance factor. The RFP provided that the agency would assign ratings of either "very relevant," "relevant," "semi-relevant" or "not relevant" to the firms' past performance based on the relevance of the past and present contracts reviewed. RFP at 46-47. The record shows that, in evaluating the relevance of past and present contracts, the agency divided the contracts among the three broad performance areas of the contract, communications electronics maintenance (CEM), visual information services (VI) and information management (IM), assigning a relevance rating for each of the three areas before arriving at the offerors' overall past performance ratings. PRAG Report, Apr. 5, 2000, at 3, and attach. 1. As noted above, the agency assigned K-Mar an overall past performance/performance risk adjectival rating of very good/significant confidence. The PRAG report specifically states that the only reason K-Mar did not receive an overall rating of exceptional/high confidence in this area was its limited amount of past performance experience in the CEM area. *Id.* at 5. The PRAG assigned K-Mar a rating of "relevant" in the CEM area. *Id.* at attach. 1.

K-Mar asserts that the manner in which the agency assigned relevance ratings was inconsistent with the terms of the RFP, which provided that those ratings would be assigned at the factor level, RFP at 46, rather than for each of the performance areas under the contract. The agency's actions were unobjectionable. Offerors were clearly advised by the RFP that the relevance of their past performance would be assessed, and we see nothing unreasonable in the agency's approach of keying this assessment to each of the performance areas under the contract. Although K-Mar is correct that the RFP did provide that relevance would be determined at the factor level, we fail to see the significance of this discrepancy. More specifically, we see no possible competitive prejudice to K-Mar--and K-Mar identifies none--that could have resulted from the approach the agency actually followed. We will not sustain a protest absent a showing of such prejudice. *McDonald-Bradley*, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; *see Statistica, Inc. v. Christopher*, 102 F.3d 1577, 1581 (Fed. Cir. 1996).

K-Mar also contends that it was improperly assigned a rating of only "relevant" in the CEM area, contending that it should have received a rating of "very relevant." In support of its position, K-Mar directs our attention to DMS's past performance, which was rated "very relevant" in the CEM area; K-Mar contends that its CEM experience is at least equivalent to DMS's, and perhaps more relevant.

This argument is without merit. Again, the proposals had to be rated against the RFP's evaluation provisions, not against each other. The RFP provided that a "very relevant" rating would be assigned where the present/past contracts assessed

involved a magnitude of effort and complexity essentially the same as that required under the current solicitation. RFP at 46. In contrast, “relevant” ratings were to be assigned where the contracts involved a lesser magnitude of effort and complexity, including most of what the current solicitation requires. Id. The RFP further provided that CEM responsibilities included maintenance of a large array of agency-owned electronic communications equipment comprised of the facility’s intrusion detection system, public address system, cryptological equipment, television equipment and ground radios. RFP Technical Exh. 2.

The agency reviewed four previous contracts in arriving at its [deleted] rating for K-Mar. Of those four, [deleted]. Under these circumstances, we conclude that K-Mar reasonably was assigned a [deleted] rating in the CEM area.<sup>6</sup>

Given our conclusion, K-Mar’s argument that its relevance rating in the CEM area should have been higher than DMS’s is essentially an argument that DMS’s rating was too high. Even if we agreed with K-Mar that this was the case, however, it would have no effect on K-Mar’s chances of receiving the award. This is because, as discussed in more detail below, the record shows that U-Tech, not K-Mar, would be in line for award if we concluded that the award to DMS was improper. This being the case, K-Mar was not competitively prejudiced by any miscalculation of the relevance of DMS’s past performance, and is not an interested party eligible to challenge DMS’s evaluation.<sup>7</sup>

In view of the foregoing, we conclude that the evaluation of K-Mar’s proposal was reasonable and consistent with the evaluation scheme.

K-Mar also takes issue with numerous aspects of the evaluation of DMS’s proposal. However, we conclude that K-Mar is not an interested party to pursue these

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<sup>6</sup> We note that K-Mar also challenges the [deleted] proposal risk rating it received under the program management subfactor. We need not consider this aspect of its protest because the record shows that this rating did not have a negative effect on K-Mar’s evaluation. In this regard, the source selection decision document states “[K-Mar’s] Mission Capability is considered comparable to [DMS’s, which was assigned a “low” proposal risk rating] notwithstanding the [deleted] rating assigned to [K-Mar’s] Program Management subfactor.” Source Selection Decision Document at 3. Thus, the rating, even if incorrect, did not prejudice K-Mar.

<sup>7</sup> In contrast, U-Tech (whose rating K-Mar does not challenge) was assigned a “very relevant” rating on the basis that its prior contracts concerned the precise requirement being solicited; U-Tech was the incumbent contractor for, among other things, the CEM requirements of the current solicitation. U-Tech also referenced several additional contracts, each of which involved, in one manner or another, the maintenance of communications equipment. PRAG Report at 12-13.

allegations because the record shows that U-Tech, not K-Mar, is next in line for award after DMS, and K-Mar does not challenge U-Tech's evaluation.

The agency compared both K-Mar's and U-Tech's proposals to DMS's in making its source selection. The agency favored DMS's proposal over K-Mar's technically higher-rated proposal because of DMS's significantly lower price. Source Selection Decision Document at 3. It appears from the record that the agency gave little weight to K-Mar's single higher rating--it received a rating one level higher under the past performance/performance risk factor--in opting to take advantage of DMS's significant cost advantage. Rather, the source selection decision document focused on the fact that "even though [price is] not as important as the [other two evaluation criteria], as stated in section M of the solicitation, it 'will still contribute substantially to the best value award decision.'" Source Selection Decision Document at 3 (emphasis in original). The agency favored DMS's proposal over U-Tech's for the obvious reason that the proposals were considered technically equivalent, and DMS's offered what the source selection authority termed "significant" cost savings over U-Tech's. *Id.* While the agency did not directly compare U-Tech's and K-Mar's proposals, had it done so, it appears there would be no change in the agency's preference for a substantial cost savings. U-Tech's technical proposal was equivalent to DMS's, and its price, while higher than DMS's, still would provide the agency with savings of more than \$1 million compared to K-Mar's price. Accordingly, we find that K-Mar lacks the direct economic interest necessary to pursue its assertions relating to the evaluation of DMS's proposal, 4 C.F.R. § 21.0(a) (2000), and dismiss those aspects of its protest. See U.S. Constructors, Inc., B-282776, July 21, 1999, 99-2 CPD ¶ 14 at 4-5.<sup>8</sup>

## THE U-TECH PROTEST

### Multiple Rounds of Discussions

U-Tech asserts that the agency acted improperly during the reevaluation by reopening negotiations with DMS to discuss issues which U-Tech maintains had already been addressed during earlier rounds of discussions; the protester maintains, essentially, that it was improper to give DMS another "bite at the apple." This argument is without merit. Under the current version of the FAR, there is nothing improper in an agency's conducting multiple rounds of discussions pertaining to an issue that remains unresolved in a proposal. Dynacs Eng. Co., Inc., B-284234 *et al.*, Mar. 17, 2000, 2000 CPD ¶ 50 at 4.

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<sup>8</sup> K-Mar casts some of its arguments in terms of alleged disparate treatment in the evaluation of its proposal versus DMS's. However, since we conclude that K-Mar's proposal was properly evaluated, these arguments essentially amount to a challenge to the agency's evaluation of DMS's proposal.

## Alleged Disparity in Staffing Approaches

U-Tech takes issue with several aspects of the agency's evaluation of its and DMS's proposed staffing. U-Tech maintains that it proposed superior staffing in certain areas, and that some of DMS's staff were inadequately qualified to perform the functions for which they were designated. The agency responds that the firms' proposed staffing levels, while they differed, were broadly comparable and met the requirements of the solicitation; it claims it had no basis to find that either firm's proposed staffing merited a higher rating.

We have reviewed all of U-Tech's allegations in this respect and find no basis to object to the evaluation in this area. The record shows that [deleted]; nothing in the record establishes, however, that one approach was clearly superior to the other. We discuss two of U-Tech's assertions for illustrative purposes.

U-Tech contends that, [deleted]. U-Tech contrasts its approach with DMS's, which, U-Tech asserts, did not propose [deleted]. According to the protester, this will result in [deleted], with the result that the agency's requirements ultimately will go unmet. In a related contention, U-Tech asserts that, overall, it offered [deleted].

The record supports the agency's position that U-Tech and DMS simply differed with respect to their proposed [deleted], with both firms offering to cross-utilize staff across substantive areas. U-Tech proposed to meet the entire [deleted]. Agency Report, exh. S7, Agency Manning Spreadsheets. In contrast, DMS proposed [deleted]. Id. Overall, aside from specialized personnel, the record supports the view that the firms' proposed staffing was [deleted], with U-Tech offering [deleted]. Id. We find nothing inherently unreasonable in the agency's conclusions that both offerors met the RFP requirements without offering anything in their proposed approach that merited a superior rating. Additionally, we conclude that there is nothing in the protester's proposed staffing approach—[deleted]—to necessarily indicate that its performance of the requirement would be superior to DMS's performance using [deleted].

## U-Tech's Alleged Proposal Strengths

U-Tech contends that it offered several strengths in its technical approach that should have resulted in its receiving higher technical ratings. First, U-Tech contends that it should have received evaluation credit [deleted]. U-Tech alleges that the agency's understanding of this enhancement is reflected in the fact that the agency asked a discussion question about it.

The agency responds that it perceived no material benefit from U-Tech's proposed [deleted] because it does not represent a meaningful enhancement beyond [deleted]. The agency further asserts that, if anything, the use of two largely overlapping [deleted].

The agency's position is reasonable. During the reevaluation, the agency did question U-Tech about [deleted]. Evaluation Notice D3. This question apparently was prompted by the fact that, from a reading of U-Tech's proposal, it appeared that the firm intended to [deleted]. Id.; U-Tech Proposal, Vol. 2, at 33-34. In response to the question, U-Tech revised its proposal, stating that [deleted]. U-Tech Response to Evaluation Notice No. D3. An examination of the solicitation, however, shows that the contractor was required to [deleted]. RFP Performance Work Statement, § 5.3.2.5.1. Thus, rather than offering an enhancement beyond the agency's requirements that might be beneficial to the Air Force, the record shows that, in fact, [deleted] was simply being offered to meet a different RFP requirement; U-Tech thus offered nothing that could be considered an enhancement to [deleted]. Accordingly, the evaluation in this area was unobjectionable.

U-Tech also takes issue with the agency's evaluation of its and DMS's quality control plans. According to the protester, it offered [deleted]. U-Tech asserts that this higher ratio entitled it to a higher rating under the Quality Control subfactor (under the Mission Capability factor).

The agency responds that the ratio of quality control personnel to production personnel was only one of numerous considerations involved in evaluating this aspect of the proposals. The Air Force takes the position that both U-Tech and DMS offered quality control plans that adequately addressed the RFP requirements, with neither offering identifiable strengths that would merit a higher rating. According to the agency, U-Tech's argument ignores the qualitative differences in the offerors' approaches, including the method and frequency of quality inspections, and the feedback mechanisms used by the offerors to identify and resolve problems.

We have no basis to object to the evaluation in this area. While the protester is correct that it offered a higher ratio of quality control personnel as compared to DMS, there is nothing in the record to show that, standing alone, these additional personnel will necessarily result in an enhanced level of performance. U-Tech has offered no argument or evidence to rebut the agency's explanation that it was not only the number of quality control personnel, but also the proposed methodology and approach to meeting the RFP requirements that formed the basis for the agency's evaluation conclusions. We again point out that the question for purposes of determining the appropriate ratings is not how these two approaches compare to one another but, rather, whether any approach included an enhancement beyond the requirements of the RFP that would provide the agency with some material benefit. U-Tech has not demonstrated that its proposed approach exceeded the solicitation requirements in a way beneficial to the Air Force, and in the absence of such a showing, we find the evaluation in this area reasonable.

#### Past Performance

U-Tech takes issue with the evaluation of both its and DMS's past performance for the VI portion of the requirement. Regarding its own evaluation, the PRAG found that, while U-Tech had experience operating the Tinker Air Force Base multimedia support center (as the incumbent under a prior contract), U-Tech did not have any relevant past performance in the areas of [deleted]. U-Tech asserts that the agency failed to consider the experience of [deleted].

This argument is without merit. While the proposed [deleted] experience was discussed in U-Tech's proposal, an examination of that discussion shows that his experience was being offered for the specific purpose of demonstrating U-Tech's experience in the area of [deleted]. In this regard, the proposal states: "We have provided [this individual's] resume as his personal experience is brought to bear in determining U-Tech's [deleted]." U-Tech Proposal, Vol. 3, at 11. There are numerous other aspects of the VI requirement that are unrelated to [deleted], including [deleted]. RFP, Performance Work Statement, 72<sup>nd</sup> Communications Squadron Services, at 19-23. Under these circumstances, given U-Tech's own lack of [deleted], the agency reasonably concluded that U-Tech's experience was limited and did not include extensive prior performance in the areas of [deleted].

U-Tech also complains that the agency improperly downgraded its past performance rating for [deleted], since those problems were remote in time, have been completely corrected and are not indicative of any potential future performance risk. The record shows that the problem experienced by U-Tech consisted of [deleted]. We simply see no reason why the agency could not take these [deleted] into consideration in U-Tech's past performance evaluation; they clearly relate to U-Tech's past performance, and the problems did not occur so far in the past that the agency was required to ignore them (U-Tech's performance difficulties appear to have occurred during the [deleted] timeframe, PRAG Report at 12). We note, moreover, that U-Tech's performance even after resolution of these problems was described as only "[deleted]." PRAG Report at 12.<sup>9</sup>

As for DMS's evaluation, U-Tech challenges DMS's satisfactory/confidence rating under the past performance/performance risk factor. According to the protester, DMS's major subcontractor, WP Photographic Services (offered to perform the VI portion of the requirement), has had recent, severe performance problems on its contracts that warranted a lower rating.

This argument is without merit. The agency was fully aware of WP's performance problems, and considered them in arriving at DMS's rating. In this regard, the PRAG report states:

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<sup>9</sup> The PRAG report also appears to indicate that U-Tech experienced [deleted] PRAG Report at 12.

WP has some very positive past performance but also has some more recent negative past performance relating to financial problems. The financial problems affected contract performance and resulted in [contract deficiency reports] and monetary deductions from the contract. Negative findings were addressed [during discussions]. DMS's response to [these discussions] did not alleviate the concerns of this PRAG team. DMS would warrant a Significant Confidence rating; however, based on the financial problems of WP, and since Visual Information is a sizable portion of this entire effort, the PRAG determined that a Satisfactory/Confidence rating was a more appropriate reflection of the performance risk.

PRAG Report at 7. The record thus shows that DMS's rating reflects WP's past problems, and was lower than the rating it would have received had it not been for those problems. While U-Tech generally disagrees with the agency's evaluation conclusion based on its reading of the deficiency reports relating to WP included in the record (suggesting that WP's difficulties are more pervasive), such disagreement is inadequate to show that the evaluation was unreasonable.

The protests are denied.

Anthony H. Gamboa  
Acting General Counsel