



U.S. Department  
of Transportation

Federal Aviation  
Administration  
Office of Dispute  
Resolution for Acquisition

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Via Email

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**Re: Protest of Leader Communications, Inc.  
Pursuant to Solicitation DTFAWA-17-R-000024  
ODRA Docket No. 17-ODRA-00794**

Dear Counsel:

Enclosed is the Public Version of the Findings and Recommendations in the above matter. Accordingly, it may be released immediately to any interested person.

Sincerely,

C. Scott Maravilla  
Dispute Resolution Officer and  
Administrative Judge

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***Office of Dispute Resolution for Acquisition***  
**Federal Aviation Administration**  
**Washington, D.C.**

**FINDINGS AND RECOMMENDATIONS**

**Matter:**        **Protest of Leader Communications, Inc.**  
                 **Under Solicitation No. DTFAWA-17-R-00024**

**Docket No.:**   **17-ODRA-00794**

*Appearances:*

For Leader Communications, Inc.:

Steven J. Koprince, Esq.  
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of Koprince Law LLC

For Tetra Tech AMT, Inc.:

Holly A. Roth, Esq.  
Elizabeth Leavy, Esq.  
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of Reed Smith, LLP

For the FAA Product Team:

R. Jason Miller, Esq. and  
Mary-Caitlin Ray, Esq.

**I.        Introduction**

This matter arises from Leader Communications, Inc.'s ("LCP") Protest filed with the Federal Aviation Administration ("FAA") Office of Dispute Resolution for Acquisition ("ODRA") pursuant to Solicitation No. DTFAWA-17-R-00024 ("Solicitation"). The Solicitation seeks operational and administrative support services for the Office of Security

## PUBLIC VERSION

and Hazardous Materials (“ASHP”<sup>1</sup>).

The Product Team utilized a two tiered evaluation structure to promote small business. *AR* Tab 6 at § M.2.1. The first tier of offerors to be evaluated (“Tier 1”) would be limited to small businesses. *Id.* If “at least two qualified small business offerors” were “found during the Tier 1 Small Business evaluation phase, then the remainder of the large business bids [would] not be evaluated, and only small business proposals [would] be evaluated.” *Id.* In order to qualify, a small business offeror must receive “a rating of ‘Pass’ for each capability required in Section L.12.2.1 Volume 1: Minimum Capability Qualification,” and a rating of Satisfactory or greater for Volumes 2 and 3 of its proposal. *Id.* If no more than one small business qualified, the evaluation would proceed to Tier 2. *Id.* The Tier 2 “evaluation [would] evaluate large business proposals along with qualified small business proposals.” *Id.* LCI received a [REDACTED] rating and, consequently, was eliminated from the Tier 2 competition. *AR* Tab 24 at 3 and Tabs 25-27.

LCI challenges the elimination of its proposal from further consideration, asserting that the Product Team did not evaluate many of the exhibits provided in LCI’s proposal. *Protest* at 7-8. LCI further alleges that the Contracting Officer erred in making a finding that the exhibits did not constitute charts, graphs, or illustrations, and, thus, the text did not conform with the requirements of the Solicitation for 12-point text font size. *Id.* LCI also alleges its communications with the Contracting Officer were insufficient, and that the Contracting Officer should not have participated in the evaluation pursuant to the Administrator’s Order in the prior Protests, *Protest of Tetra Tech AMT*, 15-ODRA-00760 and *Protest of Leader Communications, Inc.*, 16-ODRA-00768 (Consolidated). *Id.* at 11-15. LCI filed a Supplemental Protest and a Second Supplemental Protest challenging a partial corrective action undertaken by the Agency.

For the reasons discussed below, the ODRA recommends that the Protest be denied in its entirety.<sup>2</sup>

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<sup>1</sup> “ASHP” is the internal FAA routing symbol for this organization.

<sup>2</sup> The Product Team also filed a Motion to Dismiss LCI’s initial and Supplemental Protests as part of its Agency Response and Supplemental Agency Response, dated June 23, 2017 and September 12, 2017,

## II. Procedural History

The instant matter is the eighth in a series of Protests of the same underlying acquisition dating back to 2014. *Protests of Leader Communications, Inc.*, 14-ODRA-00705, 15-ODRA-00721, 15-ODRA-00753, 16-ODRA-00765, and 16-ODRA-00768, *Protest of Tetra Tech AMT*, 15-ODRA-00760, and *Protest of Encentric, Inc.*, 17-ODRA-00792. In response to Case Numbers 15-ODRA-00760 and 16-ODRA-00768 filed by Tetra Tech and LCI, respectively, the Product Team elected voluntary corrective action, which provided for a new solicitation and evaluation. *Protest of Tetra Tech AMT*, 15-ODRA-00760 and *Protest of Leader Communications, Inc.*, 16-ODRA-00768 (Consolidated).

LCI protested the Product Team's proposed corrective action. *Id.* The ODRA sustained LCI's Protest, and established a compressed schedule for the corrective action. *Id.* ("A Product Team's discretion to undertake corrective action is not absolute."). During the evaluations conducted at the direction of the Administrator, LCI's proposal was eliminated from further consideration. That elimination is the subject of the instant Protest. *See generally Protest.*

The Product Team filed its initial Agency Response ("AR") on June 23, 2017. LCI filed Comments to the initial Agency Response on June 30, 2017, and a Supplemental Protest on July 5, 2017. On July 7, 2017, the ODRA admitted Tetra Tech AMT, Inc. ("Tetra Tech"), which became the awardee of the contract during the pendency of the Protest, as an intervener.<sup>3</sup>

On the July 19, 2017, the Product Team informed the ODRA that it would undertake voluntary corrective action as to the allegations contained in the Supplemental Protest.

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respectively, and reasserted by letter, dated October 3, 2017. Responses to the Motion were filed by LCI and Tetra Tech on October 31, 2017 as part of their Comments. Based on the ODRA's Findings and Recommendations herein, the ODRA need not address the Motion.

<sup>3</sup> On July 22, 2017, Tetra Tech filed unauthorized Comments without leave from the ODRA. The ODRA subsequently struck the Comments from the record. *ODRA Letter*, dated July 28, 2017.

## PUBLIC VERSION

*Letter*, dated July 19, 2017. On August 25, 2017, the Product Team informed the ODRA of the results of its partial corrective action, i.e., that the award decision remained unchanged. *Product Team Letter*, dated August 25, 2017; *see also Supplemental Agency Response*, dated September 12, 2017.

Subsequently, LCI filed its Second Supplemental Protest on September 19, 2017. On September 19, 2017, Tetra Tech filed consolidated Comments on the initial and Supplemental Protests. The Product Team filed a Second Supplemental Agency Response on October 24, 2017. On October 31, 2017, both LCI and Tetra Tech filed their Comments. On November 6, 2017, the record closed.

### III. Standard of Review

The Protester bears the burden of proof, and must demonstrate by substantial evidence that the challenged decision lacked a rational basis, was arbitrary, capricious or an abuse of discretion, or otherwise failed in a prejudicial manner to comply with the Acquisition Management System (“AMS”). *Protest of Alutiiq Pacific, LLC*, 12-ODRA-00627. Consistent with the Administrative Procedures Act, 5 U.S.C. §§ 554 and 556, which applies to ODRA adjudications, the phrase “substantial evidence” means that the ODRA considers whether the preponderance of the evidence supports the challenged Agency action. Where the record demonstrates that the challenged decision has a rational basis and is not arbitrary, capricious or an abuse of discretion, and is consistent with the AMS and the underlying solicitation, the ODRA will not substitute its judgment for that of the designated evaluation and source selection officials. 14 C.F.R. § 17.19(m) (2016); *Protest of Potter Electric Co.*, 13-ODRA-00657.

### IV. LCI’s Font Size Challenges

#### i. Font Size

On May 3, 2017, the TET Lead raised a concern with the Contracting Officer that LCI

## PUBLIC VERSION

“appears [to have] included the majority of their proposal content in *Exhibits* using the font Times New Roman size 10 instead of the required [by the Solicitation] font size 12.” *AR* Tab 20 (emphasis in original). Section L.11.1 of the Solicitation required that “[t]he font for text must be Times New Roman, size 12 point . . . [and] [t]he font for graphics, illustrations, and charts must be eight point or larger.” *AR* Tab 6 at § L.11.1. On May 8, 2017, the Contracting Officer provided LCI with an opportunity to “edit [its] Technical proposal to enlarge the text so that it complies with [the Solicitation] and make any formatting changes incident to enlarging the text.” *AR* Tab 21. In response, LCI submitted a revised Technical Proposal, dated May 11, 2017. *AR* Tab 22.

The Contracting Officer reviewed the revised proposal. *AR* Tab 23. She expressed concern to the evaluators that “the use of the Exhibits in the proposal does not comply with [the requirements of the Solicitation].” *Id.* The Contracting Officer made a determination that LCI’s revised proposal “still contain[ed] a substantial amount of smaller-than-12-point text.”<sup>4</sup> *AR* Tab 26 at 1. She made a finding that these exhibits did not constitute “graphics, illustrations, or charts and that LCI’s reformatted proposal is therefore still noncompliant with the [Solicitation] instructions.” *Id.*

She directed the TET “when evaluating the resubmittal [to] not include any of the information in any of the exhibits as part of your evaluation.” *Id.* The TET gave LCI’s revised proposal a consensus [REDACTED] rating for Sections 1 and 2, respectively, of the Technical Proposal. *AR* Tab 24 at 3. On May 25, 2017, the Contracting Officer sent a letter to LCI informing them of their elimination from the Tier 2 competition. *AR* Tab 27.

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<sup>4</sup> The TET also made the following finding regarding the revised LCI proposal:

The consensus of the TET is that the following exhibits in revision 1 of volume II of LCI’s proposal are non-compliant with section L.11.1 of the SIR: C, D, F, G, H, I, K, and M. These noncompliant [sic] exhibits are functionally the same as the surrounding text, and the shading, colors, polka dots, and other visual accents added by LCI in revision 1 are decorative and convey no substantive information. These exhibits are therefore not graphics, illustrations, or charts: this determination is based on the content of the exhibits, not the label *Exhibit*. The font in these exhibits is smaller than 12 points, and the exhibits are therefore noncompliant [sic].

*AR* Tab 29 at 1 (emphasis in original).

## PUBLIC VERSION

LCI asserts that it met the requirement. *Protest* at 7. In the alternative, LCI argues that the term is latently ambiguous. *Id.* at 8. The ODRA rejects both arguments. The Solicitation clearly provides that “[t]he font for graphics, illustrations, and charts must be eight point or larger.” *AR* Tab 6 at § L.11.1. The very dictionary definition for “charts” that LCI relies upon explicitly includes “graph” or “diagram.” *Protest* at 8, fn. 4 citing *Merriam-Webster Dictionary*, <https://www.merriam-webster.com/dictionary/chart> (last visited June 1, 2006 [sic]). Thus, the ODRA finds that the language in the Solicitation is not ambiguous. See, e.g., *Protest of Deloitte Consulting LLP*, 08-TSA-036 (“When interpreting the language in a Solicitation, the ODRA first looks to the plain meaning of the text.”).

It is well established that “offerors must prepare their proposals within the format limitations set out in an agency’s solicitation.” See, e.g., *IMPRES Technology Solutions, Inc.*, B-409890 (August 5, 2014) at 8; see also *Protest of Team Clean*, 09-ODRA-00499 (“[I]t ultimately is an offeror’s responsibility to ensure both that its offer is clear and complete, and that it satisfies the express requirements of the Solicitation”). In *IMPRES Technology Solutions, Inc.* (“*IMPRES*”), the Government Accountability Office (“GAO”) denied a protest from four offerors eliminated from further competition for a contract for “a range of advanced technology” for the National Aeronautics and Space Administration (“NASA”). B-409890 at 1-2. With an explicit limitation of 90-pages, the offerors included 60 additional pages of original equipment manufacturers (“OEM”) letters of support. *Id.* at 4. The Contracting Officer counted the first 90-pages of the proposals (of which half of the OEMs were counted), and did not consider the remainder. *Id.* at 5. The Protesters asserted that the additional pages of OEM letters should not have been counted toward the page limitations. They argued that because there was no page number provided on those pages, as required by the Request for Proposals (“RFP”), they did not constitute pages. *Id.* at 6-7. Rejecting this argument, the GAO held that to find otherwise would “render the RFP’s explicit page limitation superfluous.” *Id.* at 9-10.

In the instant case, the Contracting Officer rejected portions of LCI’s proposal as not

## PUBLIC VERSION

conforming with the 12-point font requirement for substantive text. The Contracting Officer determined that LCI impermissibly used 8-point font for parts of the narrative text of their proposal by characterizing them as under the exception for “graphics, illustrations, and charts.” Echoing the rationale of the GAO in *EMPRES*, the Product Team argues that “[u]sing LCI’s interpretation, an offeror would be able to draw a simple black line around the outer edge of every page of its proposal, including pages with nothing but narrative text; call the entire page a *graphic*, *illustration*, or *chart*; and completely avoid the 12-point requirement.” *Agency Response* at 8. The ODRA concurs. Accordingly, LCI has not met its burden of demonstrating that the Product Team acted irrationally by not evaluating the non-conforming parts of their proposal.

### ii. Communications

LCI asserts that it was misled by the Contracting Officer’s directions to amend its proposal to conform with the 12-point font requirement. *Protest* at 11. LCI argues that “[t]hough LCI’s proposal complied with the [Solicitation’s] instructions, the Contracting Officer instructed LCI to amend its proposal but restricted the method of amendment to a manner that would likely result in the amended proposal being unacceptable.” *Id.* LCI goes on to state that “to change the graphical text to 12-point font but not change any of its proposal text when making these revisions would have ensured that LCI’s proposal exceeded the page count.” *Id.*

AMS 3.2.2.3.1.2.2 provides that “[t]he purpose of communications is to ensure there are mutual understandings between the FAA and the offerors about all aspects of the procurement, including the offerors’ submittals/proposals.” *See also* AR Tab 6 at § L.6.1. In the instant case, the Contracting Officer did just that. Upon hearing the concern from the TET Lead regarding the font size of some of LCI’s exhibits, the Contracting Officer initiated communications to clarify mutual understanding between the FAA and LCI with regard to this provision of the Solicitation. AR Tab 21-22. Thus, the ODRA finds that the communications initiated by the Product Team were in accordance with the requirements of the AMS.



## PUBLIC VERSION

### iii. Contracting Officer's Involvement

LCI asserts that the Contracting Officer participated in the corrective action contrary to the Administrator's Order pursuant to *Protest of Leader Communications, Inc.*, 16-ODRA-00768. *Protest* at 13. The record demonstrates that the Solicitation for the corrective action in the previously referenced Protest was posted to FAA Contract Opportunities on March 3, 2017. *AR* Tab 1. The announcement explicitly provided the name of the Contracting Officer as the point of contact. *Id.* LCI protested her appointment on June 6, 2017 well outside the "seven (7) business days after the date the protester knew or should have known of the grounds for the protest." 14 C.F.R. § 17.15(a)(3)(i). Accordingly, the ODRA finds this ground of protest untimely.

### V. Agency Corrective Action

On July 5, 2017, LCI filed a Supplemental Protest providing "three additional reasons why the Product Team's evaluation of LCI's proposal was irrational, arbitrary, and capricious." *Supplemental Protest* at 1. Specifically, LCI asserted that: (1) "the Contracting Officer stepped outside her authority to limit the [TET's] evaluation of LCI's proposal" by excluding all Exhibits, not just the ones found noncompliant, (2) as a consequence, "LCI was not allowed a full and fair evaluation," and (3) "the Product Team evaluated LCI unequally." *Id.*

In preparing its response to the Supplemental Protest, the Product Team provided to the ODRA that it "discovered a potential misunderstanding in its evaluation of LCI's proposal." *Letter*, dated July 19, 2017 at 1. In an email dated May 12, 2017 to the TET Lead, the Contracting Officer directed the evaluators to "not include any of the information in any of the exhibits as part of your evaluation." *AR* Tab 23. After completing the evaluation, the TET Lead sent an email to the Contracting Officer stating: "The re-evaluation was in accordance with your instructions not to evaluate non-conforming content included in Exhibits to LCI's response. Therefore, information not in compliance

## PUBLIC VERSION

with formatting requirements included in L.11 were not evaluated.” *AR* Tab 25.

Notwithstanding the TET Lead’s assertion, “at least one member of the TET evaluated LCI’s technical proposal’s evaluation in accordance with the [Contracting Officer’s] mistaken instructions; the portion of LCI’s exhibits that were compliant with the [Solicitation] were therefore not evaluated by the full TET.” *Letter*, dated July 19, 2017 at 2. The Product Team informed the ODRA that it would take partial corrective action to cure the defect. *Id.* at 3.

By letter dated August 25, 2017, the Product Team informed the ODRA of the results of the corrective action. *Product Team Letter*, dated August 25, 2017; *see also Supplemental Agency Response*, dated September 12, 2017. The results of the reevaluation left the “source selection official’s original decision . . . unchanged.” *Id.* On September 19, 2017, LCI filed a Second Supplemental Protest challenging the reevaluation.

The ODRA finds that the partial corrective action taken by the Product Team rendered the Supplemental Protest moot, and recommends that it be denied. *Protest of E2M Engineering*, 12-ODRA-00786.

### **VI. Second Supplemental Protest to Agency’s Corrective Action**

#### **A. General Challenges to the Corrective Action**

LCI asserts that “[t]he corrective action was structurally deficient, as it resulted in the unequal application of unstated evaluation criteria. *Second Supplemental Protest* at 1. Specifically, LCI argues that by finding portions of its proposal non-compliant with the 12-point font size requirement, the Product Team: (1) unfairly treated LCI because “[n]o other offeror’s exhibits (or whatever they might have called them) were subjected to such scrutiny;” (2) used unstated evaluation criteria; and (3) the initial communications with LCI on May 8<sup>th</sup> were deficient. *Id.* at 2-4. The ODRA finds these arguments meritless.

## PUBLIC VERSION

LCI's allegations of disparate treatment and unstated evaluation criteria are merely a recasting of its initial Protest that the Product Team erred in finding that it deviated from the 12-point font requirement by treating text as graphics, illustrations, or charts. That issue is addressed earlier in these Findings and Recommendations, and the ODRA need not revisit them here. *See Protest of Diamond Antenna & Microwave Corporation*, 11-ODRA-00583 ("Notwithstanding Diamond's attempt to recast its protest of an altogether distinct and separate single source award to Kevlin as a 'systematic flaw,' the ODRA views these issues as one and the same."). With respect to LCI's Protest of its May 8<sup>th</sup> communications with the Product Team, such a challenge is untimely because it could have been brought with the initial Protest. 14 C.F.R. § 17.15(a)(3).

### **B. Challenge to the Contracting Officer's Authority**

LCI asserts that the Contracting Officer exceeded her authority by recommending to the Source Selection Official ("SSO") that the reevaluation of LCI's proposal should not change the best value determination. *Second Supplemental Protest* at 6 citing *AR* Tab 31. LCI argues that "[t]o have the Contracting Officer intrude on [the SSO's] prerogative [to make the award] with regard to LCI only, however, unnecessarily and prejudicially tipped the scales against it – that is, the SSO could have decided to go against the TET's recommendation, but this chance was lessened once the Contracting Officer weighed in." *Id.* This ground is meritless.

In a Memorandum to the SSO, dated August 17, 2017, the Contracting Officer wrote:

The TET's August 17 supplemental evaluation presented the results of the TET's evaluation of the compliant parts of revision 1 of volume II of LCI's proposal (i.e. the full proposal except for [Exhibits C, D, F, G, H, I, K, and M]. The TET assigned a volume-level rating of [REDACTED]. Section M.2.1 of the SIR required a Volume II rating of Satisfactory or higher in order for an offeror to be considered qualified for award.

I recommend that the TET's supplemental evaluation have no effect on your June 28 decision that Tetra Tech's proposal is the best value to the government.

## PUBLIC VERSION

AR Tab 31. As counsel for the Product Team points out, the Evaluation Plan specifically required the Contracting Officer to “[p]repare Award Decision Documents or Source Selection *Recommendation* including Best Value Trade-Off Analysis.” AR Tab 15 at 3 (emphasis added). By including a recommendation in the “Source Selection Recommendation,” the Contracting Officer was clearly acting within her authority.<sup>5</sup> Accordingly, the ODRA recommends this protest ground be denied.

### C. Challenges to the Technical Reevaluation of LCI’s Proposal

#### i. Evaluation of Section 1

Upon completion of its reevaluation of LCI’s proposal, the Product Team rated LCI as [REDACTED] for Sections 1 and 2 of Volume 2. AR Tab 30 at 3 and 14. The rating fell short of the required Satisfactory in order to proceed to the Tier 2 evaluation. AR Tab 6 at § M.2.1.

The Product Team determined that Exhibits C, D, F, G, H, I, K, and M of Volume 2 of LCI’s revised proposal, AR Tab 22 at 3, 4, 7, 11, 14, 16, 19, and 23, did not comply with the font size requirements of Section L.11.1 of the Solicitation. AR Tab 30 at 4. Accordingly, the reevaluation excluded the information contained in these Exhibits. *Id.*

LCI challenges the ratings it received for Section 1 of its proposal as follows:

Factor	Consensus Adjectival Rating	Product Team Rationale
Functional Area 1: Executive Support	[REDACTED]	[REDACTED]
Functional Area 2: Security Program Support	[REDACTED]	[REDACTED]

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<sup>5</sup> The record further demonstrates that the SSO made the decision to eliminate LCI from Tier 2 consideration. AR Tab 32. LCI’s argument that had the Contracting Officer left out the final sentence of her Memorandum, the SSO would have qualified LCI for Tier 2 competition is highly speculative. *Second Supplemental Protest* at 6.

**PUBLIC VERSION**

Functional Area 3: Other ASH Program Support	[REDACTED]	[REDACTED]
Functional Area 4: Common Identification Standards (CIS) Support	[REDACTED]	[REDACTED]
Functional Area 5: Web Systems Operations Support	[REDACTED]	[REDACTED]
Functional Area 6: Application Development and Maintenance Support	[REDACTED]	[REDACTED]
Functional Area 7: Classified Systems Support	[REDACTED]	[REDACTED]

AR Tab 30 at 3, 7-9, and 11.

LCI notes that “[h]ad Exhibits C, D, F, G, H, I, K, and M been considered, most (if not all) of the weaknesses would not have been assessed.” *Second Supplemental Protest* at 8. Because the ODRA finds that the Product Team’s exclusion of those Exhibits had a rational basis, it follows that the evaluation of LCI’s proposal had a rational basis for not crediting the information contained in those Exhibits.

**ii. Evaluation of Section 2**

LCI also challenges the ratings it received for Section 2 of its proposal. The Solicitation provided four Sample Tasks for the offeror to propose a solution. AR Tab 6 at § L.13.2.2-2. The Tasks were to be evaluated on the basis of understanding, decomposition (identification of the core issue), approach, and staffing. *Id.* LCI received the following ratings for this Section:

Sample Task	Consensus Adjectival Rating	Product Team Rationale
1 - Interagency Security Committee (ISC) Risk Management	[REDACTED]	[REDACTED]
2 - Accelerating PIV-Complaint Physical Access Control Systems	[REDACTED]	[REDACTED]
3 - Improving Security for Web Systems Operations	[REDACTED]	[REDACTED]
4 - Secure Web Applications and Databases	[REDACTED]	[REDACTED]

## PUBLIC VERSION

*AR* Tab 30 at 14. LCI asserts that it would have received higher scores in the evaluation of its solutions, but for alleged errors on the part of the Product Team. *Second Supplemental Protest* at 14.

### a. Sample Task One

LCI asserts that its “score under sample Task One should have been much higher.” *Second Supplemental Protest* at 15. Sample Task One asked the offeror to provide their “approach . . . to incorporate Interagency Security Committee (ISC) risk management standards and processes within an established FAA facility security management program,” and the “process to coordinate and socialize these changes within FAA.” *AR* Tab 6 at § L.13.2.2-2. The TET gave LCI a [REDACTED] rating for Sample Task One. The TET found [REDACTED] strengths and [REDACTED] weaknesses. *AR* Tab 30 at 14-15.

LCI asserts that its “proposal under this sample task was robust” and “[described] in detail the operational problems associated with this task.” *Id.* at 14 citing *AR* Tab 22 at 26. LCI continues that it “identified four key assumptions that related to this problem decomposition, its tradeoffs and three significant risks.” *Id.* citing *AR* Tab 22 at 26-27. It “provided a detailed approach to meeting this problem, with appropriate staffing levels.” *Id.* citing *AR* Tab 22 at 26-30.

LCI does not generally challenge the underlying evaluation of its proposal, only the conclusions drawn by the evaluators. While LCI argues that “[m]any of the weaknesses assessed were unreasonable or contradictory,” it only cites to one example, a failure to convey a general understanding of ISC, as “inconsistent with these strengths, so it shouldn’t have been assessed.” *Id.* That weakness in full is that “[t]he proposal [REDACTED]. Following ISC process, once an FSL is determined (based on defined attributes), the ISC prescribes the minimum, baseline levels of protection/measures.” *AR* Tab 30 at 15. The strengths assessed for Sample Task One are that LCI possess a “general description of understanding the task and DHS/ISC policies and standards,” and its “[p]roposal reflected

## PUBLIC VERSION

general familiarization with the ISC standard.” *Id.* A review of LCI’s proposal does not demonstrate that these findings are inconsistent with what it provided. *Compare AR Tab 30 at 15 with AR Tab 22 at 27-30.* The ODRA finds that this amounts to a mere disagreement with the findings of the evaluators, and is not a basis to sustain the Protest. *Protest of Systems Research and Applications Corporation*, 10-ODRA-00562.

### b. Sample Task Two

LCI asserts that its assessed “weaknesses [for Sample Task Two] were simply divorced from the reality of LCI’s effort.” *Second Supplemental Protest* at 16. Sample Task Two asked the offeror to state the appropriate Federal rules and regulations for compliance, provide its technical approach, and additional factors for deployment in “up to 50 facilities nation-wide” for “PIV-compliant physical access control systems.” *AR Tab 6 at § L.13.2.2-2.* The TET gave LCI a [REDACTED] rating for Sample Task Two. *AR Tab 30 at 14.* LCI received [REDACTED] strengths, [REDACTED] weaknesses, and [REDACTED] for this task. *Id.* at 16-17.

LCI argues that it should not have received a weakness leading to a risk for detailing their staffing approach for the sample task. *Second Supplemental Protest* at 16. The weakness found by the TET is that the “[s]taffing levels recommended do not seem appropriate for the level of effort. This may delay the implementation of any problem resolution.” *AR Tab 30 at 16.* The risk found is that LCI’s “[s]taffing model [REDACTED]. It is not clear what data was used to work up/justify this estimate.” *Id.* at 17. The Product Team states that LCI’s staffing approach was evaluated consistent with the requirements of the Solicitation. *Second Supplemental Agency Response* at 31-32. The Technical Evaluation Team Lead declares that LCI did not provide “sufficient explanation to justify its estimated staffing model roles and hours.” *Declaration of TET Lead*, dated October 23, 2017 at ¶ 13. In fact, a review of LCI’s proposal merely shows a list of labor categories and hours in table form as its approach to staffing. *AR Tab 17 at 35.* Thus, the TET had a rational basis in finding this weakness.

## PUBLIC VERSION

LCI also argues that it should not have received a weakness for its identification of the relevant Federal regulations and policies was inconsistent with the question presented. *Second Supplemental Protest* at 16. The TET found that LCI “[j]ust provided a list of regulations, didn’t really explain how they would implement; possibly delaying the implementation of any problem resolution.” *AR* Tab 30 at 16. The Product Team asserts that LCI was properly assessed a weakness for the requirement to enumerate the relevant Federal regulations and policies “that should be considered to ensure compliance.” *Supplemental Agency Response* at 31; *AR* Tab 6 at § L.13.2.2-2. The TET Lead states that the “weaknesses were assigned because [the] TET did not believe that LCI’s proposal described a detailed approach to implementing those standards.” *Declaration of TET Lead* at ¶ 13. In its proposal, LCI merely states that it “[REDACTED].” *AR* Tab 22 at 32-33. LCI goes on to just list the applicable authorities. *Id.* The ODRA observes that, contrary to LCI’s assertion, the problem does require the offeror to address how they would “ensure compliance” with these standards. *AR* Tab 6 at § L.13.2.2-2 (emphasis added). Accordingly, the ODRA finds that LCI’s challenges to the evaluation of Sample Task Two lacks merit because LCI failed to fully respond to the requirements of the Solicitation.

### c. Sample Task Three

LCI asserts that the weaknesses it received for Sample Task Three were based on errors by the evaluators, including one allegedly “based on an unstated evaluation criterion.” *Second Supplemental Protest* at 17. Sample Task Three asked the offerors:

How would you improve security of web systems operations by integrating the following products and technologies:

- Cisco ASA
- Netapp Filers
- VMware Virtual Asset Management tool (vSphere)
- SafeNet HSM and cryptographic key management solutions
- F5 GTM/LTM



## PUBLIC VERSION

- Provisioning Fiber Channel Storage device

*AR* Tab 6 at § L.13.2.2-2. The TET gave LCI a [REDACTED] rating for Sample Task Three. *AR* Tab 30 at 14. LCI was assessed [REDACTED] strengths and [REDACTED] weaknesses. *Id.* at 17-18.

LCI states that it “presented a detailed approach, centered around [REDACTED].” *Second Supplemental Protest* at 17. LCI should not have been assessed weaknesses because “the Product Team appears to have misread the requirement: it is not about integrating these products in technologies into an undefined number of specific current projects . . . [i]nstead, it was about developing a framework to integrate them.” *Id.* LCI specifically cites to weaknesses found for its “supposedly generic approach,” “not proposing [REDACTED],” its staffing approach, and failure to “[REDACTED].” *Id.* at 17 citing *AR* Tab 30 at 17-18.

The Product Team states that the “evaluation of sample task 3 was proper.” *Second Supplemental Agency Response* at 32. The TET Lead declares that “the TET found that the proposal did not substantiate LCI’s technical approach and understanding of the requirement.” *Declaration of TET Lead* at ¶ 14. The weakness was assigned for “LCI’s generic decomposition of the problem for all technologies.” *Id.* The TET Lead goes on to elaborate that LCI did not “demonstrat[e] the ability to provide [REDACTED],” which “would negatively impact performance of the resulting contract.” *Id.* Weaknesses were also assessed for “providing staffing levels that were not appropriate for the level of effort . . . based on the TET’s experience managing web systems operations for ASH and based on the Task Order Approach and Staffing evaluation elements.” *Id.* With respect to [REDACTED], the “TET assessed this weakness because the schedule on page 22 of LCI’s proposal was incomplete and did not [REDACTED].” *Id.* LCI received its overall rating of [REDACTED] because “the combined impact of the weaknesses outweighed the combined impact of the strengths.” *Id.*

Review of the proposal confirms that LCI provided a broad overview of the technologies

## PUBLIC VERSION

in question as opposed to the detailed demonstration of knowledge and effort sought by the evaluators. *Compare AR Tab 22 at 36-42 with AR Tab 30 at 18.* In upholding the weaknesses, the ODRA finds that the final score of [REDACTED] is consistent with the evaluation criteria established in the underlying Solicitation. A [REDACTED] rating is defined as one where “[REDACTED].” *AR Tab 6 at § M.3.2.* Based on the foregoing, the ODRA finds that LCI’s arguments amount to a mere disagreement with the findings of the evaluators. *Protest of Systems Research and Applications Corporation, 10-ODRA-00562.*

### d. Sample Task Four

Finally, for Sample Task Four, LCI asserts that “several of the weaknesses should not have been assessed.” *Second Supplemental Protest at 18.* Sample Task Four asked: “What is the process you would follow to minimize security vulnerabilities to develop secure web applications and databases for ASH security program areas listed in section C.4?” *AR Tab 6 at § L.13.2.2-2.* The TET gave LCI a [REDACTED] score for this task. *AR Tab 30 at 14.* LCI received [REDACTED] strengths and [REDACTED] weaknesses. *Id. at 19.*

LCI argues that its “approach set up a systematic, fully-documented methodology and suite of tools for any current or future project, to ensure that each project and product complies with the approval set up of security requirements.” *Second Supplemental Protest at 18.* LCI states emphatically that “[t]his effort, plainly, was *excellent*.” *Id.* LCI also disagrees with the Product Team’s weakness findings, but only specifically challenges the fifth one, i.e., “the depth to which the Offeror describes its ability to follow the process of minimizing security vulnerabilities to develop web applications in databases for ASH seems generic and repetitive.” *Id. at 18* quoting *AR Tab 30 at 19.* LCI argues that “[s]imply put, this wasn’t a generic description – it was detailed and thorough and should have been awarded an *excellent* rating.” *Id.* (emphasis in original).

The Product Team disagrees. It asserts that its “evaluation of sample task 4 of LCI’s proposal, Secure Web Applications and Databases, was proper.” *Second Supplemental Agency Response at 35.* The TET Lead declares that “[o]verall, the TET found that LCI’s

## PUBLIC VERSION

proposal did not include a detailed, substantiated description of its approach. LCI did not explain how they would use products and technologies listed in the SIR attachment C2 to minimize ASH web security vulnerabilities.” *Declaration of TET Lead* at ¶ 15. Review of the proposal confirms that LCI does not elaborate on how it proposes to use the products and technologies in the ASH Operating Environment as required by the Solicitation. *Compare AR Tab 2 at C-24 with AR Tab 22 at 43-46.* Thus, the ODRA finds that LCI’s arguments amount to a mere disagreement with the findings of the evaluators. *Protest of Systems Research and Applications Corporation*, 10-ODRA-00562.

### VII. Conclusion

Based on the foregoing, the ODRA recommends that the protest be denied in its entirety.

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C. Scott Maravilla  
Dispute Resolution Officer and  
Administrative Judge  
FAA Office of Dispute Resolution for Acquisition