



Comptroller General  
of the United States

Washington, D.C. 20548

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## Decision

**Matter of:** JSA Healthcare Corporation--Reconsideration

**File:** B-252724.3

**Date:** September 27, 1993

Robert E. Gregg, Esq., Hazel & Thomas, for the protester, John A. Burkholder, Esq., Crowell & Moring, for ASG Management Company, Inc., an interested party, Richard P. Burkard, Esq., and C. Douglas McArthur, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Request for reconsideration of decision denying protest against award of contracts to higher-rated, higher-priced offerors is denied where request identifies no errors of law or fact in the previous decision.

### DECISION

JSA Healthcare Corporation requests that we reconsider our decision, JSA Healthcare Corp., B-252724, July 26, 1993, 93-2 CPD ¶ 54, in which we denied its protest against the award of three contracts to PHP Healthcare Corporation (PHP) and one contract to ASG Management Company (ASGM) under request for proposals (RFP) No. N62645-91-R-0057, issued by the Naval Medical Logistics Command for the establishment and operation of medical clinics. The protester, who had argued that it should have received the awards based upon its lower price for the four locations, argues that our decision ignored the written rationale for the selection decision, which contained evidence that the agency's concerns about weaknesses in the protester's proposal were of decisive significance in the selection decision.

We deny the request for reconsideration.

The RFP, issued June 17, 1991, contemplated the award of fixed-price-plus-award-fee contracts for clinics at various locations, including Norfolk, Virginia and Oceanside (Camp Pendleton), Oakland, and San Diego, California. The RFP, as amended, required that the contractor provide medical services including episodic and continuing family practice

services, physical examinations, radiology services including mammography, pharmacy services, and routine birth control counseling and prescription services.

The RFP provided that each award would be made on the basis of the proposal determined to be most advantageous considering both technical merit and price. It stated further that the technical proposal would be considered to be of greater importance than the price proposal.

The agency technical evaluators rated the technical proposals using adjectival ratings of "excellent," "good," "average," and "marginal." JSA, PHP, and ASGM received ratings of "good" for each of the four sites at issue. Within the rating category of "good," the proposals were ranked--ASGM first, PHP second, and JSA third. Given the relatively slight price difference between PHP and JSA, the agency awarded the contracts for the Norfolk, Oceanside, and Oakland sites to PHP, based on the technical superiority of that firm's proposal. Similarly, while the price difference was somewhat greater, the agency determined that ASGM's technically superior proposal represented the better value for the San Diego site.

JSA challenged the award of these four contracts, arguing that the proposals submitted by the awardees did not represent a better value to the government than its lower-priced proposals. The protester contended that the agency unreasonably identified certain "weaknesses" in its proposal, specifically, the lack of a positive approach to family planning and the use of a "time consuming and cumbersome" form for each pharmacy visit. The protester did not challenge the agency's determination that the proposals submitted by the awardees contained significant strengths not present in its own proposal. JSA essentially ignored the presence of these strengths, arguing that the agency's selection of the higher-priced offerors was flawed by its improper consideration of alleged weaknesses in JSA's proposal.

In our decision, we concluded that the protester was simply incorrect in its contention that apart from the weaknesses noted in its proposal, its proposal was technically equal to those of the awardees. Rather, the record had revealed undisputed strengths in those proposals. In addition to ASGM's comprehensive recruiting system, evaluators were impressed with ASGM's proposed computer system, which would allow a multitude of tasks to be performed automatically and facilitate the processing of clinic and patient information. Among the strengths associated with PHP's proposal were its emphasis on its role as a primary care manager for those patients who chose to receive their healthcare at the clinic. The evaluators were also impressed with PHP's

computer system and its superior appointment system, whereby its telephone appointment lines would be open 30 minutes prior to the time set for clinic operations.

The record showed that the Navy had determined that JSA's proposal conformed to all RFP requirements and had certain strengths, particularly its team management approach to chronic care and the emphasis on wellness and preventive medicine. On the other hand, the agency concluded that the "lack of a positive approach to family planning" and the use of the pharmacy entry form made it less desirable than the other proposals sharing the "good" rating.

Since the record showed that the awardees for each site offered strengths not present in JSA's proposal and that the agency reasonably found that JSA's proposal contained weaknesses despite its overall rating of "good," we concluded that the Navy reasonably determined that the technical superiority offered by PHP and ASGM outweighed the price advantages of the protester's proposal and that the selection decision was consistent with the solicitation's emphasis on technical factors. Although the agency's concerns about the protester's proposal were neither unreasonable nor unfounded, the record as a whole showed that these concerns were no more significant in the selection decision than were the strengths of the ASGM and PHP proposals.

The protester now requests reconsideration based on its objections to the statement in our decision that "the record contains no indication that the agency's concerns about the protester's proposal were a significant factor in the selection decision[s]." The protester asserts that our Office has misstated the record, in particular the source selection advisory council (SSAC) recommendation, which concluded as follows:

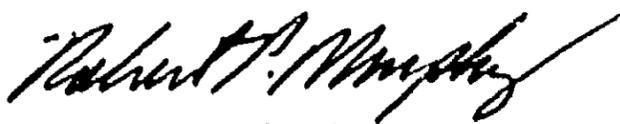
"[T]he ASGM and PHP proposals do represent a significant technical advantage over the JSA technical proposal due to the weaknesses identified in the JSA technical proposals."

Our decision clearly acknowledged that the weaknesses of the protester's proposal were factors in the selection decision; however, as the document cited by JSA also states, the agency considered these weaknesses "minor deficiencies which would not substantially impact performance." In relying on the summary paragraph prepared by the SSAC in support of its position, the protester fails to acknowledge the detailed narrative discussion contained in the SSAC proposal analysis report, which set forth the specific strengths of the awardees' proposals and which was considered, along with other

relevant evaluation data, by the source selection authority. Considering the record as a whole, the language of the SSAC memorandum provides no basis for reconsidering our decision.

Contrary to the protester's assertion, we did not conclude, nor did the record show, that the price/technical tradeoffs were based solely on the strengths of the awardees' proposals.<sup>1</sup> To obtain reversal or modification of a decision, the requesting party must convincingly show that our prior decision contains either an error of fact or law or information not previously considered that warrants its reversal or modification. 4 C.F.R. § 21.12(a) (1993); Gracon Corp.-- Recon., B-236603.2, May 24, 1990, 90-1 CPD ¶ 496. The protester here has made no such showing.

The request for reconsideration is denied.

  
for James F. Hinchman  
General Counsel

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<sup>1</sup>Our decision stated that the strengths of the awardees' proposals "in themselves support" the selection decision. We did not state, as JSA contends, that those strengths alone justified the Navy's decisions.