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## Decision

**Matter of:** King Farm Associates, LLC; One Largo Metro LLC; Metroview Development Holdings, LLC

**File:** B-404896.10; B-404896.11; B-404896.12; B-404896.13; B-404896.14

**Date:** December 5, 2011

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### DIGEST

1. Protest that the agency failed to consider both the variety and quantity of amenities offered under the access to amenities subfactor in a lease procurement is denied, where the variety and quantity of amenities was reasonably considered in the agency's evaluation and selection decision.
2. Protests arguing that the ultimate selection official, the head of the contracting activity here, did not meaningfully consider the evaluated differences in the offerors' proposals in her selection decision are denied, where the official implemented our prior recommendation by looking beyond the adjectival ratings assigned to the offerors' proposals.

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### DECISION

King Farm Associates, LLC, of Vienna, Virginia; One Largo Metro LLC, of Upper Marlboro, Maryland; and Metroview Development Holdings, LLC, of Largo,

Maryland, protest the award of a lease to Fishers Lane/JBG Companies, of Rockville, Maryland, under solicitation for offers (SFO) No. 08-011, issued by the General Services Administration (GSA) for office space for the Department of Health and Human Services (HHS).

We deny the protests.

## BACKGROUND

The SFO, issued by GSA in July 2008, sought offers for a 15-year lease of up to 935,401 rentable square feet of office space in suburban Maryland to collocate HHS operating divisions that are currently housed in four separate locations.<sup>1</sup> See Contracting Officer's (CO) Statement, Apr. 28, 2011, at 1. Suburban Maryland was defined by the SFO as consisting of Montgomery and Prince George's counties. SFO at 7.

Offerors were informed that award would be made on a "best value" basis, considering price and three technical factors: location; building characteristics; and past performance and key personnel. SFO at 11. The location and building characteristics factors were stated to be of equal weight, and to be each significantly more important than the past performance and key personnel factor. SFO amend. 7, at 1. Price was stated to be significantly less important than the combined weight of the technical factors, but would become more important as offers approached technical equality. SFO at 11.

The following subfactors were identified under each non-price evaluation factor:

<b>Location</b>	
	Access to Existing Metrorail
	Access to Amenities
<b>Building Characteristics</b>	
	Number of Buildings
	Planning Efficiency and Flexibility
	Quality of Building Architecture, Building Systems, and Construction
<b>Past Performance and Key Personnel</b>	
	Past Performance
	Key Personnel

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<sup>1</sup> The majority of HSS employees in these locations are housed in the building offered by the awardee. Agency Report (AR), Tab 18, Program of Requirements, at 1.1.

SFO amend. 7, at 1. Under the location factor, the access to existing Metrorail subfactor was stated to be significantly more important than the access to amenities subfactor and more important than any other subfactor. The SFO indicated that the subfactors under the building characteristics factor were in descending order of importance. Id.

With regard to access to an existing Metrorail station, offerors were required to calculate the distance from the main entrance of their proposed buildings to the entrance of the nearest Metrorail station. SFO at 11. In addition, offerors were required to identify the walking route for distances less than 2,500 walkable linear feet (wlf). For distances greater than 2,500 wlf, offerors were required to propose a shuttle schedule. The SFO also stated that the highest evaluation credit would be provided based upon how close a proposed building was to an existing Metrorail station.<sup>2</sup> Id.

With regard to access to amenities, offerors were informed that “[o]ffers will be evaluated for amenities within the building or otherwise available” within one mile of the building’s main entrance, and that evaluations would consider “the quantity and variety of the following amenities: fitness facilities, postal facilities . . . restaurants, day care center, fast food establishments, dry cleaners, [banks and ATMs], convenience shops, card/gift shops, hair salons, automotive service stations, and drug stores.” SFO amend. 8, at 1-2. The SFO noted that, to be considered, restaurants and fast food establishments must be open for lunch and dinner. Id. at 2. The SFO further advised that the best rating would be given to offers that provide the greatest variety and quantity of amenities existing at the time of occupancy within the building or within 1,500 wlf of the building.<sup>3</sup> Id.

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<sup>2</sup> GSA prepared a source selection plan (SSP) for the procurement, which provided for the assignment of the following adjectival ratings: superior, highly successful, successful, marginal, and poor. See AR, Tab 5, Revised SSP, at 12-18. For example, under the access to existing Metrorail subfactor, the SSP provided for a superior rating where the building distance from the Metrorail station was within 1,500 wlf; a highly successful rating where the distance was more than 1,500 but less than 2,500 wlf; a successful rating where the distance was more than 2,500 wlf but less than 1 mile; a marginal rating where the distance was more than 1 mile but less than 2 miles; and a poor rating where the distance was more than 2 miles but less than 3 miles. Id. at 15.

<sup>3</sup> The SSP provided for the assignment of adjectival ratings under the access to amenities subfactor based upon the number of amenities being offered in categories identified in the SFO within a certain distance from the proposed building. For example, a superior rating reflected having at least nine amenities from the identified categories within 1,500 wlf of the building. A highly successful rating reflected having at least eight amenities within 2,500 wlf. A successful rating reflected having  
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With respect to the evaluation of price, offerors were informed that the agency would calculate a present value of the annual price per square foot, including any option prices. SFO at 16. The offerors were instructed to propose an itemized lease rate per square foot that would include property financing, insurance, taxes, management, and profit. See id. at 19.

In November 2008, GSA received proposals from five firms, including Fishers Lane, One Largo, Metroview, and King Farm. CO's Statement, Apr. 28, 2011, at 6. Fishers Lane offered to renovate the building that currently contains the majority of the HHS staff impacted by the lease; the other four offerors offered to construct new buildings. Because of funding constraints, the procurement was suspended until February 2010. After receiving revised offers from all five firms in March 2010, GSA engaged in several rounds of clarifications and discussions, and requested final revised offers. Id. at 7-9.

Offers were evaluated by the agency's technical evaluation teams<sup>4</sup> (TET), which assigned adjectival ratings under each non-price evaluation factor supported by a narrative discussion that identified the offerors' respective strengths and weaknesses. See AR, Tabs 71, 72, and 73, TET Revised Evaluation Reports. The evaluation reports were provided to the agency's source selection evaluation board (SSEB), which also evaluated the offerors' revised proposals. The SSEB assigned adjectival ratings under each subfactor and for the proposals overall. See AR, Tab 76, SSEB Final Evaluation Report, at 3. As relevant here, under the planning efficiency and flexibility subfactor, the SSEB identified a number of strengths and weaknesses for each offeror:

	<b>King Farm</b>	<b>Metroview</b>	<b>One Largo</b>	<b>Fishers Lane</b>
Significant Strengths	7	6	4	5
Minor Strengths	3	3	6	3
Significant Weaknesses	0	0	0	1
Minor Weaknesses	2	4	4	4

See id. at 15-25.

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at least five amenities within 2,500 wlf. A marginal rating reflected having at least three amenities within 2,500 wlf. AR, Tab 5, Revised SSP, at 16.

<sup>4</sup> GSA assigned a separate technical evaluation team for each non-price evaluation factor.

In addition to the technical evaluation, GSA calculated a net present value per square foot for the awardee's and protesters' final revised proposals, as follows:

King Farm	\$23.82
Fishers Lane	\$24.74
One Largo	\$27.83
Metroview	\$27.95

AR, Tabs 145, 146, 147, and 148, Present Value Analyses.

The SSEB recommended that the lease be awarded to King Farm. AR, Tab 76, SSEB Final Evaluation Report, at 48-50. The SSEB found that the proposals of Fishers Lane, One Largo, and Metroview were essentially technically equal, and that the price of Fishers Lane was lower than the prices of One Largo and Metroview. The SSEB then compared the Fishers Lane higher-rated proposal to King Farm's lower-priced proposal. The SSEB found that the higher technical rating of the Fishers Lane proposal primarily reflected that offeror's proposal of a building that was closer to the nearest Metrorail station. The SSEB also found, however, that King Farm had mitigated that advantage by offering a free shuttle service.<sup>5</sup> Id. at 48. The SSEB concluded that although the Fishers Lane proposal had a higher rating, the two offerors' proposals approached "technical equality," and the perceived benefit in the Fishers Lane proposal did not merit the additional cost to the agency. Id. at 50.

The SSEB's report and recommendation were provided to the agency's source selection authority (SSA), who ultimately agreed that the lease should be awarded to King Farm. AR, Tab 78, SSA Decision, at 1. The SSA noted that even though King Farm's proposed site was the furthest from a Metrorail station--and therefore received a marginal rating under the access to existing Metrorail subfactor--the site was only three-tenths of a mile farther than the distance necessary to receive a successful rating (as defined by the SSP). The SSA also noted that King Farm's distance from the Metrorail station would be mitigated by King Farm's proposed shuttle and local bus service. Id. at 3. The SSA found that King Farm offered a savings of over \$90 million over the life of the lease as compared to One Largo. Id.

The SSA's decision was provided to GSA's commissioner for the National Capital Region Public Buildings Service, who also serves as the Head of the Contracting Activity (HCA) for this region. The HCA reviewed the SSEB's evaluation report and selected Fishers Lane for award. AR, Tab 79, HCA Decision, at 1, 7. Following GSA's March 20, 2011, announcement of its decision, King Farm, One Largo, and Metroview protested to our Office. We sustained the protests, finding that GSA failed to

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<sup>5</sup> The SSEB also noted the \$39 million price difference between King Farm's proposal and the Fishers Lane proposal over the term of the lease. Id. at 50.

consider both the variety and quantity of amenities offered under the access to amenities subfactor, as required by the SFO, and that the HCA did not meaningfully consider the evaluated differences in the offerors' proposals in her selection decision. One Largo Metro LLC; Metroview Dev. Holdings, LLC; King Farm Assocs., LLC, B-404896 et al., June 20, 2011, 2011 CPD ¶ 128 at 12, 16. We recommended that GSA reevaluate proposals under the access to amenities subfactor in accordance with the SFO, and perform and document a new selection decision.

In response to our decision, the HCA reevaluated proposals under the access to amenities subfactor and made a new tradeoff analysis without conducting additional discussions or requesting revised proposals. HCA Decl. at 2. With regard to the access to amenities subfactor, the HCA obtained additional, updated information about the number and types of amenities offered, as well as the hours of operation of the amenities. AR, Tab 320, HCA Selection Decision, at 3; Hearing Transcript (Tr.) at 22, 152.<sup>6</sup>

With regard to King Farm's proposal, the HCA determined that King Farm's location offered 12 amenities in 8 amenity categories within 1,500 wlf, and a total of 16 amenities in 10 amenity categories within 2,500 wlf. AR, Tab 320, HCA Selection Decision, at 4. The HCA first determined that, based on the number of amenity categories and consistent with the SSP's rating methodology, King Farm's proposal would merit a highly successful rating. Id. However, the HCA then considered the total number of amenities, including 7 eating establishments open for breakfast and lunch. Based on these additional considerations, the HCA raised King Farm's rating from highly successful to "highly successful approaching superior" under the access to amenities subfactor. Id. at 5.

With regard to the proposal of Fishers Lane, the HCA determined that its location offered 18 amenities within 1,500 wlf and a total of 23 amenities in 8 amenity categories within 2,500 wlf. Id. at 7. The HCA noted that, consistent with the SSP, the proposal of Fishers Lane merited a highly successful rating based on the number of amenity categories.<sup>7</sup> The HCA then acknowledged that 9 of the amenities were automotive stations, and that this greater number did not provide additional quality to employees, but that the additional 14 amenities, including 5 fast food establishments within 2,500 wlf, did provide benefits to employees. On this basis,

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<sup>6</sup> At the request of the protesters, we conducted a two-day hearing, at which we received testimony from the HCA concerning her tradeoff decision, and from the contracting officer concerning the signing of the lease.

<sup>7</sup> Prior to the HCA reevaluating proposals, the SSEB had rated the proposal of Fishers Lane superior under the access to amenities subfactor based on an assessment of 9 amenity categories. AR, Tab 76, SSEB Final Evaluation Report, at 10.

the HCA concluded Fishers Lane’s proposal merited a “highly successful approaching superior” rating under the access to amenities subfactor. Id.

The HCA also reviewed the SFO, the SSEB reports, and other information, focusing on the SSEB’s evaluation of proposals under each subfactor. Tr. at 15. The HCA adopted the SSEB’s assessment of proposal strengths and weaknesses and the SSEB’s ratings for subfactors and proposals overall—as modified by her reevaluation of proposals under the access to amenities subfactor. AR, Tab 320, HCA Selection Decision, at 9-10; Tr. at 82-83. The HCA relied upon the following evaluation ratings in her tradeoff analysis:<sup>8</sup>

	<b>King Farm</b>	<b>Metroview</b>	<b>One Largo</b>	<b>Fishers Lane</b>
<b>Location (45%)</b>				
Access to Existing Metrorail (35%)	Marginal	Superior	Superior	Highly Successful
Access to Amenities (10%)	Highly Successful approaching Superior	Marginal	Successful	Highly Successful approaching Superior
<b>Building Characteristics (45%)</b>				
Number of Buildings (20%)	Superior	Superior	Superior	Superior
Planning Efficiency and Flexibility (15%)	Superior	Superior	Superior	Highly Successful
Quality of Building Architecture, etc. (10%)	Superior	Superior	Superior	Superior
<b>Past Performance &amp; Key Personnel (10%)</b>				
Past Performance (5%)	Superior	Neutral	Neutral	Superior
Key Personnel (5%)	Superior	Highly Successful	Superior	Superior
<b>OVERALL</b>	<b>Highly Successful</b>	<b>Superior</b>	<b>Superior</b>	<b>Superior</b>

<sup>8</sup> The percentage weighting assigned by the SSP to the factors and subfactors was not disclosed in the SFO. See AR, Tab 5, Revised SSP, at 14.

See AR, Tab 320, HCA Selection Decision, at 9-10.

The HCA again concluded that Fishers Lane's proposal reflected the best value to the government. Id. at 18. In her selection decision document, the HCA compared the merits of each proposal by subfactor. For example, the HCA acknowledged that One Largo's proposal was the strongest under the most important access to existing Metrorail subfactor because One Largo's offered location was only 525 wlf from the nearest Metrorail station. Id. at 10; Tr. at 28. The HCA also concluded that the locations offered by Metroview and Fishers Lane also were within a reasonable walking distance of 1,280 wlf and 2,407 wlf, respectively. With regard to the location offered by King Farm, the HCA noted that the location was a substantially greater distance from a Metrorail station (1.3 miles), and concluded that this disadvantage was not overcome by King Farm's proposed shuttle. AR, Tab 320, HCA Selection Decision, at 11; Tr. at 49-50.

With regard to the planning efficiency and flexibility subfactor, the HCA acknowledged that the proposal of Fishers Lane was rated lower than the other proposals because of its tighter column spacing. The HCA also recognized minor weaknesses in other proposals under this subfactor, but concluded that these weaknesses were too minor to detract from the overall quality of the offers. AR, Tab 320, HCA Selection Decision, at 11.

The HCA concluded that, notwithstanding the variations in adjectival ratings assigned to the offerors' proposals, the offers of Fishers Lane, Metroview, and One Largo "approach equality" in terms of technical quality. Id. at 12. In conducting her tradeoff analysis to determine which proposal offers the best value to the government, the HCA recognized that Fishers Lane offered the lowest price per square foot among the three proposals that approached equality in technical quality. See id. at 13.

With respect to One Largo's proposal, the HCA recognized that One Largo offered superiority under the access to existing Metrorail subfactor because of its very easy access to a Metrorail station, but concluded that Fishers Lane offered a building that, while further away, was still within a walkable distance. Id. at 14. The HCA also recognized that One Largo's proposal was superior to Fishers Lane's under the planning flexibility and efficiency subfactor because the proposal of Fishers Lane contained a significant weakness for tight column spacing. However, the HCA stated that this superiority was mitigated by minor weaknesses in One Largo's proposal, such as non-uniform column spacing and a non-rectangular floor plate, which the HCA stated would have a negative impact on space planning. The HCA also determined that Fishers Lane's site offered more amenities with better hours and closer proximity compared to the limited variety of amenities offered by One Largo's site. The HCA concluded that One Largo's technical advantages did not provide sufficient technical advantage to merit an additional cost of \$3.09 per square foot, or almost \$51.2 million over the life of the lease. Id.

With respect to Metroview's proposal, the HCA recognized that Metroview was superior to Fishers Lane under the access to existing Metrorail and planning efficiency and flexibility subfactors, but that Fishers Lane's proposal was superior under the access to amenities and key personnel subfactors. See id. at 15-16. As relevant here, the HCA noted that, at 1,280 wlf, Metroview's location was approximately a 5-minute walk from the Metrorail station, compared to 2,407 wlf, or a 10-minute walk, from Fishers Lane's location to the station. The HCA concluded that both distances were reasonably walkable, and that this mitigated Metroview's advantage under this subfactor. The HCA again recognized the narrow column spacing offered by Fishers Lane presented a significant weakness, but stated that its lower common area factor provides a greater proportion of usable space, which mitigated this weakness. The HCA concluded that Metroview's technical advantages were not sufficiently advantageous to merit an additional cost of \$3.21 per square foot, or almost \$48.4 million over the life of the lease. Id.

With respect to King Farm's proposal, the HCA concluded that although King Farm offered the lowest price, its proposal offered lower technical quality because King Farm's location was the farthest distance from an existing Metrorail station, the most important subfactor. Id. at 12. Noting that price was less important than the technical factors unless the proposals approach technical equality, the HCA concluded that King Farm's lower price was less advantageous than the other offers, given its technical inferiority. Id. at 13. Although the HCA stated in her selection decision that the technical inferiority of King Farm's proposal did not require a price/technical tradeoff analysis, the HCA nonetheless addressed the distinctions between the proposals of King Farm and Fishers Lane. Id. at 17. The HCA recognized that the proposal of King Farm was superior to that of Fishers Lane under the planning efficiency and flexibility subfactor owing to the narrow column spacing (a significant weakness) in the proposal of Fishers Lane, but stated that the lack of uniform column spacing (a minor weakness) in the proposal of King Farm mitigated King Farm's advantage in this subfactor. Id.

The HCA concluded that the major difference between Fishers Lane's and King Farm's proposals was the distance of each building from an existing Metrorail station. In this regard, the HCA noted that Fishers Lane's building was within a reasonable walking distance from a Metrorail station, whereas the location proposed by King Farm was 1.3 miles from a Metrorail station and not a reasonable walking distance (which was the reason King Farm's proposal received a marginal rating under this subfactor). Id. The HCA acknowledged that King Farm's price was \$0.92 per square foot lower than that of Fishers Lane, or \$39.2 million over the life of the lease, but concluded that as technical quality is more important than price when offers were not approaching technical equality, the lower price offered by King Farm did not overcome its technical inferiority. Id. at 17-18.

On August 24, 2011, the HCA selected Fishers Lane for award of the lease, and the contracting officer executed the lease that same day. Following a debriefing, these protests were filed.<sup>9</sup>

## DISCUSSION

The protesters raise numerous objections to GSA's reevaluation of offers and selection decision. For example, King Farm challenges GSA's reevaluation of its proposal under the access to amenities subfactor, and all three protesters challenge various aspects of the HCA's tradeoff analysis and selection decision. As explained below, we deny the protesters' challenges, finding that the HCA's decision was not unreasonable. Although we discuss only the more significant arguments in resolving the protests, we have considered all of the parties' arguments.<sup>10</sup>

### Access to Amenities Subfactor

King Farm argues that GSA unreasonably evaluated King Farm's proposal solely on the number of amenity categories offered, rather than considering the total number of amenities in proximity to the offered location, as required by the SFO. King Farm Protest at 13.

The SFO required GSA to evaluate both the overall number of amenities offered as well as the number of amenity categories (*i.e.*, variety), as well as the hours of operation. SFO amend. 8, at 1-2. The record shows that the HCA in her reevaluation of the proposals took into account the hours of operation, the overall number of amenities—including the value of the amenity type, such as eating facilities—as well as the number of amenity categories.

For example, the HCA considered that, in addition to amenities in 8 amenity categories, the amenities within 2,500 wlf of the King Farm location also included 7 eating establishments that were open for breakfast and lunch. *See* AR, Tab 320, HCA Selection Decision, at 4-5. On this basis, the HCA reasonably raised King Farm's rating under the access to amenities subfactor from highly successful to "highly successful approaching superior" in recognition of advantages beyond the

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<sup>9</sup> On August 18, One Largo Metro filed a protest with our Office, but withdrew it on August 23 upon assurances from GSA that no award decision had yet been made.

<sup>10</sup> Metroview argued in its comments that the HCA failed to consider in her tradeoff decision the results of the fire and safety evaluation of the building offered by Fishers Lane. Metroview Comments at 12-13. This issue is untimely as the fire and safety evaluation results were included in information provided to the protesters in April 2011; however, Metroview raised this argument on October 17, approximately six months later.

number of amenity categories.<sup>11</sup> Similarly, in rating Fishers Lane’s proposal as “highly success approaching superior” under this subfactor, the SSA recognized that, although there were 23 amenities over 8 amenity categories within 2,500 wlf of the Fishers Lane location, 9 of the amenities were automotive service stations, which did not provide additional quality to HHS employees. Id. at 7.

Although, as King Farm notes, the HCA first evaluated the number of amenity categories as the starting point for her analysis, we find that this does not negate the HCA’s consideration of the other aspects required under the SFO with regard to the access to amenities subfactor. Rather, the record demonstrates that the HCA reasonably evaluated King Farm’s proposal under the access to amenities subfactor in accordance with the SFO.

#### Requirement to Reopen Discussions

Metroview argues that GSA acted unreasonably in deciding to reevaluate proposals in accordance with our prior decision without reopening discussions and requesting another final proposal revision. Metroview Protest at 3. Metroview contends that reopening discussions “may well have resulted in more favorable rental rates” and improved technical proposals. Id.; Metroview Comments at 11.

The decision whether to reopen discussions is largely a matter left to the agency’s discretion. Innovative Communications Techs., Inc., B-291728, B-291728.2, Mar. 5, 2003, 2003 CPD ¶ 58 at 8 n.2. Moreover, it is well-settled that once an agency has received final offers, it is not legally required to reopen discussions to permit a single offeror to demonstrate the merits of its proposal. eTouch Fed. Sys., LLC, B-404894.3, Aug. 15, 2011, 2011 CPD ¶ 160 at 3. In our view, the agency did not abuse its discretion in deciding not to reopen discussions.

Here, the SFO provided for discussions, and, in fact GSA held two rounds of discussions in September and December 2010, during which the offerors were informed of weaknesses in their proposals. CO’s Statement, Oct. 7, 2011, at 9. After each round of discussions, the offerors submitted final proposal revisions. Id. Thus, Metroview had two opportunities to strengthen its proposal prior to the March

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<sup>11</sup> King Farm also contends that GSA deviated from the SSP’s rating methodology and improperly “invented” a new rating category of “highly successful approaching superior.” King Farm Protest at 14-15. An agency’s SSP, however, is an internal guide that does not give rights to parties; it is the solicitation’s evaluation scheme, not internal agency documents such as SSPs, to which an agency is required to adhere in evaluating proposals and making the award selection. Sayres & Assocs. Corp., B-295946, B-295946.2, Apr. 25, 2005, 2005 CPD ¶ 90 at 6 n.9. King Farm does not show that the agency’s evaluation was inconsistent with the RFP’s evaluation criteria.

selection of Fishers Lane. Where an agency has adequately advised an offeror of an area of concern, there is no legal requirement that it raise the issue again in a subsequent round of discussions, even where the issue continues to be of concern to the agency. LIS Inc., B-400646.4, Jan. 4, 2010, 2010 CPD ¶ 18 at 11. Metroview has not alleged that GSA failed to inform it of weaknesses, but merely alleges that technical proposals could be improved by another round of discussions.

In addition, although Metroview has stated that GSA “might” have received better pricing, such a statement is merely speculative and does not demonstrate that reopening discussions would be in the best interests of the government. To the extent that Metroview implies that our recommendation to GSA under the prior protest required the agency to reopen discussions, we note that our recommendation was limited to the reevaluation of proposals under the access to amenities subfactor and performance of a new tradeoff analysis.<sup>12</sup>

#### HCA Tradeoff Analysis

King Farm, One Largo, and Metroview challenge the HCA’s tradeoff analysis and selection of Fishers Lane’s proposal. King Farm Protest at 7-12; One Largo Protest at 1-5; Metroview Protest at 3. More specifically, One Largo and Metroview contend that the HCA in her selection decision did not sufficiently recognize the superiority of their proposals under the access to existing Metrorail and planning efficiency and flexibility subfactors. King Farm, One Largo, and Metroview also contend that the HCA did not give sufficient weight to price in her tradeoff analysis.<sup>13</sup>

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<sup>12</sup> In its initial protest, Metroview also complained that GSA failed to conduct clarifications after our March 2011 decision, as Metroview had requested. Metroview Protest at 2. In our view, however, Metroview abandoned this complaint when it did not address the agency’s answer to these allegations, when it submitted in its comments on the agency report. See Cedar Elec., Inc., B-402284.2, Mar. 19, 2010, 2010 CPD ¶ 79 at 3 n.4.

<sup>13</sup> King Farm and Metroview also argue that the HCA lacked the expertise necessary to reasonably evaluate proposals and make a source selection decision. See King Farm Post-Hearing Comments at 2; Metroview Post-Hearing Comments at 8-9. We will not review allegations concerning the qualifications of evaluators or source selection officials absent a showing of possible fraud, conflict of interest, or actual bias on the part of the evaluation and selection officials, none of which has been shown here. See, e.g., Eggs & Bacon, Inc., B-310066, Nov. 20, 2007, 2007 CPD ¶ 209 at 4 (challenge to qualifications of evaluators). Rather, our focus is on whether the agency’s evaluation of proposals and source selection decisions are reasonable, consistent with the stated evaluation criteria, and adequately documented. See, e.g., Trofholz Techs., Inc., *infra*.

In reviewing an agency's evaluation of proposals and source selection decision, it is not our role to reevaluate submissions; rather, we examine the supporting record to determine whether the decision was reasonable, consistent with the stated evaluation criteria, and adequately documented. Trofholz Techs., Inc., B-404101, Jan. 5, 2011, 2011 CPD ¶ 144 at 3; Johnson Controls World Servs., Inc., B-289942, B-289942.2, May 24, 2002, 2002 CPD ¶ 88 at 6. Where, as here, a solicitation provides for award on a best value basis, the decision as to the relative technical merit of the offers must be based upon a comparative consideration of the technical differences of the proposals. See Systems Research & Applications Corp.; Booz Allen Hamilton, Inc., B-299818 et al., Sept. 6, 2007, 2008 CPD ¶ 28 at 24. A protester's mere disagreement with the agency's determination as to the relative merits of competing proposals, or disagreement with its judgment as to which proposal offers the best value to the agency does not establish that the source selection decision was unreasonable. ITW Military GSE, B-403866.3, Dec. 7, 2010, 2010 CPD ¶ 282 at 5.

#### Access to Existing Metrorail Subfactor

One Largo and Metroview challenge the HCA's judgment that the proposals of Fishers Lane, Metroview, and One Largo approached technical equality. More specifically, One Largo and Metroview argue that the HCA failed to recognize the superiority of their proposals, which were closer to an existing Metrorail subfactor, when the HCA determined that Fishers Lane's building, which was located 2,407 wlf from a Metrorail station, was within a reasonable walking distance.<sup>14</sup> One Largo Post-Hearing Comments at 3-5; Metroview Post-Hearing Comments at 9-11. In particular, One Largo argues that the HCA failed to consider One Largo's "nearly two step advantage" over Fishers Lane under this most important subfactor. One Largo Post-Hearing Comments at 2-3. GSA responds that the HCA acknowledged the advantages of One Largo and Metroview under this subfactor, but looked beyond the adjectival ratings to determine that, as all three offerors were within 2,500 wlf, and within a 10-minute walk from a Metrorail station, the offers approached, but did not achieve, technical equality. See GSA Post-Hearing Comments at 3-4.

As we noted in our prior decision, ratings, whether numerical, color, or adjectival, are merely guides for intelligent decisionmaking. One Largo Metro LLC; Metroview Dev. Holdings, LLC; King Farm Assocs., LLC, supra, at 14, citing Citywide Managing Servs. Of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 11. Here, the HCA looked beyond the adjectival ratings to determine the practical aspects of the distances from a Metrorail station. The HCA was not

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<sup>14</sup> The proposals of One Largo and Metroview were rated as superior under the access to existing Metrorail subfactor, having offered buildings located approximately 525 wlf, and 1,280 wlf, respectively, from an existing Metrorail station; the proposal of Fishers Lane was rated as highly successful for offering a building located 2,407 wlf from a Metrorail station.

unreasonable in concluding, consistent with the SFO, that any distance shorter than 2,500 wlf was a reasonable walking distance. In this regard, the SFO advised offerors that “[those] who are more than 2,500 [wlf] from a Metrorail station must provide a shuttle service,” SFO amend. 8, at 1; which indicated that the SFO contemplated that distances shorter than 2,500 wlf were reasonable walking distances, otherwise a shuttle would have been required for distances less than 2,500 wlf, as well. Moreover, the HCA recognized in her written decision and in her testimony before us that One Largo’s and Metroview’s proposals merited the superior ratings they received under this subfactor because of their greater proximity to Metro. The HCA nonetheless concluded that this superiority did not merit the additional cost to the government. AR, Tab 320, HCA Selection Decision, at 14, 16; Tr. at 28, 42. Although the protesters’ disagree with the HCA’s decision in this regard, this disagreement does not show that her judgment was unreasonable.

#### Planning Efficiency and Flexibility Subfactor

One Largo and Metroview also challenge the HCA’s conclusion that the technical superiority of their proposals to that of Fishers Lane under the planning efficiency and flexibility subfactor was slight. One Largo Post-Hearing Comments at 5-6; Metroview Post-Hearing Comments at 11-12. The protesters argue that the HCA unreasonably determined that the tighter column spacing offered by Fishers Lane (which was evaluated to be a significant weakness) was mitigated by the non-rectangular floor plans and non-uniform column spacing (which were evaluated to be minor weaknesses) offered by One Largo and Metroview because Fishers Lane’s proposal was evaluated as also containing these same two minor weaknesses. Id.

GSA agrees that Fishers Lane’s proposal was also evaluated as having a non-rectangular floor plan and non-uniform column spacing, but states that the HCA’s judgment as to the differences between the firms’ proposals under this subfactor is not unreasonable because, with respect to One Largo and Fishers Lane, their proposals were assessed a similar number of strengths and weaknesses by the SSEB.<sup>15</sup> GSA Post-Hearing Comments at 5 n.1. GSA argues that the difference between the proposals of Metroview and Fishers Lane in this subfactor was nonetheless reduced by the lower common area factor for the building offered by Fishers Lane, which indicates more usable space. Id. at 5.

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<sup>15</sup> Specifically, GSA asserts that the SSEB report identified 9 strengths (4 significant and 5 minor) and 2 minor weaknesses for One Largo, and 8 strengths (5 significant and 3 minor) and 4 weaknesses (including one significant weakness) for Fishers Lane. Id. We note that the SSEB report actually identifies 4, not 2, minor weaknesses for One Largo. See AR, Tab 76, SSEB Final Report, at 21-22.

The HCA testified that she reviewed all of the evaluated strengths and weaknesses of the proposals under the planning efficiency and flexibility subfactor. Tr. at 38-39. She acknowledged that only the proposal of Fishers Lane contained a significant weakness. Id. at 39, 43. The HCA also testified that she was aware at the time of her source selection decision that the SSEB had assigned minor weaknesses to the proposal of Fishers Lane for a non-rectangular floor plan and non-uniform column spacing, as had been assigned to One Largo and Metroview. Id. at 87.

Despite the HCA's testimony that she was aware at the time of her selection decision of these weaknesses in Fishers Lane's proposal, the HCA's written selection decision does not acknowledge that Fishers Lane's proposal had these same weaknesses. See AR, Tab 320, HCA Selection Decision, at 14, 16. Moreover, the HCA was unable to articulate at our hearing an explanation for this omission from her decision. See, e.g., Tr. 87-90. Nonetheless, the record does not demonstrate that the protesters were competitively prejudiced by the HCA's actions. The SSEB report assessed significant and minor strengths and weaknesses to each proposal, which the HCA reviewed and adopted in making her tradeoff and selection decision. AR, Tab 320, HCA Selection Decision, at 9-10; Tr. at 82-83. The weaknesses in dispute were only two among many criteria the SSEB considered under this subfactor, which itself was only weighted 15 percent. In this regard, the SSEB evaluated the following numbers of strengths and weaknesses under the firms' proposals under the planning efficiency and flexibility subfactor: 4-6 significant strengths, 3-6 minor strengths, 1 significant weakness (Fishers Lane), and 2-4 minor weaknesses. See AR, Tab 76, SSEB Final Report, at 18-25.

### Price

The protesters also object to the weight that the HCA afforded price in her tradeoff analysis. One Largo Protest at 11-13; Metroview Protest at 3; King Farm Protest at 11-12. More specifically, One Largo and Metroview argue that the HCA placed too much emphasis on Fishers Lane's lower price in her tradeoff decision; One Largo and Metroview also contend that the HCA failed to give sufficient weight to their evaluated strengths under the access to Metrorail subfactor, the highest-weighted subfactor. One Largo Post-Hearing Comments at 9; Metroview Post-Hearing Comments at 8. Conversely, King Farm argues that the HCA did not sufficiently consider King Farm's lower price. King Farm Comments at 7-9.

The SFO advised offerors that "price is of significantly less importance than the combined weight of the technical factors," but that the importance of price "becomes greater as technical offers approach equality." SFO at 11. The HCA concluded that the proposals of One Largo, Metroview, and Fishers Lane were, "not equal, but approaching technical equality," Tr. at 16, and so considered price to be of greater importance in comparing the proposals. AR, Tab 320, HCA Selection Decision, at 13; Tr. at 106. With regard to a comparison of the proposals of King Farm and Fishers Lane, the HCA recognized that because of King Farm's distance of 1.3 miles from a Metrorail station, King Farm's proposal was technically inferior to the other

proposals. Therefore, in conducting her tradeoff analysis, the HCA gave price less consideration in her decision. AR, Tab 320, HCA Selection Decision, at 17; Tr. at 104-105. We find the HCA's consideration of the firms' respective proposed prices to be consistent with the SFO.

### Tradeoff Between King Farm and Fishers Lane

King Farm also argues that the HCA failed to conduct a tradeoff analysis between the proposals of Fishers Lane and King Farm. King Farm Post-Hearing Comments at 9. King Farm points to a statement in the HCA's selection decision that the HCA "need not reconcile the price and technical factors of King Farm's offer in order to determine whether its price offers the best value to the Government" as conclusive evidence that the HCA did not conduct a tradeoff analysis. *Id.* citing AR, Tab 320, HCA Selection Decision, at 17. The HCA also stated in her hearing testimony that she did not reconcile the price and technical factors but did conduct a tradeoff between the proposals of King Farm and Fishers Lane. Tr. at 99, 184-185.

An agency's or other party's characterization of facts in the record does not constrain our ability as a forum to make findings of fact consistent with the record. See Veda, Inc.--Recon., B-278516.3, B-278516.4, July 8, 1998, 98-2 CPD ¶ 12 at 3 (Agency had conducted a cost/technical tradeoff, despite statements by the agency to the contrary).

The record here shows that the HCA, in fact, conducted a tradeoff analysis with respect to the proposals of King Farm and Fishers Lane. That is, the record shows that the HCA compared the technical merits of the proposals of King Farm and Fishers Lane, and concluded that the major difference in the two proposals lay in the distance of each location from an existing Metrorail station. See AR, Tab 320, HCA Selection Decision, at 17. The HCA recognized that the price offered by Fishers Lane was \$0.92 per square foot, or \$39.2 million over the term of the lease, more than the price offered by King Farm, but concluded that the price difference did not compensate for King Farm's greater distance from a Metrorail station, given that price is less important than technical quality where proposals do not approach technical equality. *Id.* at 17-18.

## CONCLUSION

In conclusion, we have reviewed all of the protesters' arguments and find that the protesters have not demonstrated that the agency's actions with regard to the reevaluation of proposals and source selection decision were unreasonable.<sup>16</sup>

The protests are denied.<sup>17</sup>

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General Counsel

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<sup>16</sup> King Farm and One Largo initially protested that the award decision did not represent the HCA's independent judgment, but instead was the result of the influence of a more senior GSA official. King Farm Protest at 16-17; One Largo Protest at 5-6. However, King Farm abandoned this protest ground when it did not address the agency's response in its comments; One Largo formally withdrew this protest ground after hearing the HCA's testimony. One Largo Post-Hearing Comments at 15.

<sup>17</sup> The protesters also object that Fishers Lane signed the lease before the selection decision was issued and that the lease did not contain a termination clause. Given our decision above finding that the agency's evaluation and selection decision was reasonable, we need not address these issues because they have no bearing on the evaluation of proposals and source selection process. In any event, the record shows that, although Fishers Lane signed the lease form prior to the date of the selection decision, the lease was not executed by GSA until after the selection decision was issued on August 24.