



**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

## Decision

**Matter of:** BLM Companies, LLC; Innotion Enterprises, Inc.

**File:** B-420846.7; B-420846.8

**Date:** February 14, 2024

---

Douglas P. Hibshman, Esq., Jung Hyoun Han, Esq., and Dana L. Molinari, Esq., Fox Rothschild LLP, for the protesters.

Antonio R. Franco, Esq., Eric A. Valle, Esq., Katherine B. Burrows, Esq., Jacqueline K. Unger, Esq., and Kelly A. Kirchgasser, Esq., Piliero Mazza PLLC, for 24 Asset Management Corporation; and Joyce Gill-Milaszewski, for JGM Property Group, Inc., the intervenors.

Jose Montalvo-Rodriguez, Esq., Julie K. Cannatti, Esq., Justin D. Haselden, Esq., and Richard A. Marchese, Esq., Department of Housing and Urban Development, for the agency.

Heather Weiner, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### DIGEST

Protests that the agency unreasonably evaluated the protesters' past performance are denied where the record shows the agency's evaluation was reasonable and consistent with the terms of the solicitation.

---

### DECISION

BLM Companies, LLC, a small business located in Washington, Utah, and Innotion Enterprises, Inc., a small business located in Fairfax, Virginia, protest the award of multiple indefinite-delivery, indefinite-quantity (IDIQ) contracts to 24 Asset Management Corporation, of Miami, Florida; Spectrum Solutions Acquisitions, LLC, of Salt Lake City, Utah; and JGM Property Management Group, of Shelby Township, Michigan, under request for proposals (RFP) No. 86544B19R00002, issued by the Department of Housing and Urban Development (HUD) for field service contract managers. The protesters challenge HUD's evaluation of their past performance.

We deny the protests.

## BACKGROUND

HUD, through the Federal Housing Administration (FHA), insures lenders against the risk of loss on mortgages obtained with FHA financing. Agency Report (AR), Tab 24, RFP at 17. In the event of a default on an FHA-insured loan, the lender acquires title to the property by foreclosure or other acquisition method, files a claim for insurance benefits, and conveys the property to HUD. *Id.* After properties are conveyed, HUD manages and sells the conveyed properties to maximize the return of insurance funds. *Id.*

To achieve this end, HUD administers a real estate disposition service through homeownership centers (HOC) located in Philadelphia, Pennsylvania; Atlanta, Georgia; Denver, Colorado; and Santa Ana, California. *Id.* Each HOC is responsible for real estate within a designated geographic area.<sup>1</sup> *Id.* HUD contracts for three types of management and marketing (M&M) services in these areas: property management services (performed by field service manager (FSM) contractors), asset management services, and mortgagee compliance management services. *Id.* at 18. Contractors awarded FSM contracts perform tasks such as property inspection, property security, cosmetic enhancements, and ensuring the property is “ready to show.” *Id.*

### Solicitation and Initial Awards

Using the procedures in Federal Acquisition Regulation (FAR) part 15, HUD issued RFP No. 86544B19R00002 on February 5, 2021, seeking FSM services for 11 contract areas. BLM COS at 4. The solicitation contemplated the award of 11 fixed-price (fixed-unit rate) and cost-reimbursement IDIQ contracts,<sup>2</sup> one for each contract area.<sup>3</sup>

---

<sup>1</sup> These areas are designated by a number and a letter. BLM Contracting Officer’s Statement (BLM COS) at 2. For example, Area 4D is handled by the Denver HOC and encompasses Iowa, Nebraska, South Dakota, and Wisconsin. *Id.*; see also RFP, attach. 1, HOC Map.

<sup>2</sup> The RFP provided for a cost-reimbursement contract line item number (CLIN) for pass-through expenses. RFP at 13. The solicitation included a list of allowable pass-through expenses and advised that “[t]he contractor will be reimbursed for the actual cost of the service or item,” and that “[t]here will be no fee/profit or overhead included.” *Id.*

<sup>3</sup> The solicitation provided for the following 11 contract areas: 3A/4A (Illinois, Indiana, and Kentucky), 5A/8A (North Carolina, South Carolina, Florida, Puerto Rico, and U.S. Virgin Islands), 6A/7A (Alabama, Mississippi, Tennessee, and Georgia), 1D (Colorado, New Mexico, North Texas, and Utah), 2D (Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and South Texas), 4D/5D (Iowa, Nebraska, South Dakota, Wisconsin, Minnesota, Montana, North Dakota, and Wyoming), 1P/4P (Michigan and Ohio), 3P (Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, Rhode Island, and Vermont), 5P (Pennsylvania, District of Columbia, Maryland, Virginia, and  
(continued...)

RFP at 132. Each contract was to have a base period of performance of up to 12 months, with four 1-year option periods and a 6-month extension option. *Id.* at 22. The solicitation instructed that an offeror was permitted to propose on “multiple contract areas,” but that the offeror had to submit a single proposal, and that each area would “be evaluated based on its own merit.” *Id.* at 136.

The solicitation established that proposals would be evaluated using technical acceptability, past performance, and price factors, and that award would be made using a best-value tradeoff between past performance and price. *Id.* at 145. The solicitation provided that past performance and price would be considered approximately equal. *Id.*

The RFP provided for a multi-step evaluation and selection process in which the agency would: (1) rank all proposals by price, evaluate technical acceptability and past performance, starting from the lowest-priced proposal, until at least two proposals are found to be minimally technically acceptable and at least one of the technically acceptable proposals achieved the highest available rating for past performance; (2) evaluate price for the proposals evaluated in the prior step; and (3) perform a trade-off analysis and source selection decision based on the best value. *Id.* at 150-151.

With respect to past performance, the RFP required offerors to submit a past performance information chart, provided as attachment 8 of the solicitation, listing all relevant past performance performed in the three-year period immediately preceding submission of the proposals. *Id.* at 142. If an offeror had more than five relevant past performance references, the solicitation instructed it to “provide the most recent 5 references.” *Id.* For each reference, the solicitation required offerors to submit a past performance survey completed by the reference rating the offeror’s performance in five different categories using adjectival ratings. *Id.* at 142; AR, Tab 10, RFP, attach. 9, Past Performance Survey. The solicitation provided that the agency would evaluate the past performance on the basis of recency, relevancy, quality, and sufficiency.<sup>4</sup> *Id.*

BLM and Innotion, both of which are incumbent FSM contractors, submitted proposals for ten of the eleven geographical areas: 3A/4A, 5A/8A, 6A/7A, 1D, 2D, 4D/5D, 1P/4P, 3P, 5P, and 4S/6S. BLM COS at 4; Innotion COS at 4. After evaluating proposals--including BLM’s and Innotion’s--HUD awarded eleven contracts to three companies: 25 Asset Management, Spectrum, and JGM. BLM COS at 5. HUD then notified BLM and Innotion that they had not been selected for any awards.

---

West Virginia), 3S/5S (Arizona, California, and Hawaii), and 4S/6S (Nevada, Idaho, Alaska, Oregon, and Washington). RFP at 136-137.

<sup>4</sup> The agency assessed overall past performance ratings as: excellent/very low risk/very high confidence; good/low risk/high confidence; satisfactory/medium risk/some confidence; neutral/unknown risk/neutral confidence; poor/very high risk/low confidence; and unsatisfactory/very high risk/very low confidence. RFP at 149.

## Prior Protests to GAO

Thereafter, BLM, Innotion, and one other unsuccessful offeror protested the contract awards to our Office. On July 27, 2022, HUD elected to take corrective action. Specifically, HUD advised that it intended to cancel the awards for all eleven geographical areas, reevaluate proposals, and make new source selection decisions. BLM COS at 5; Req. for Dismissal (BLM) at 1; Req. for Dismissal (Innotion) at 1. As a result, our Office dismissed the protests as academic. *BLM Companies, LLC*, B-420846.3, Aug. 1, 2022 (unpublished decision); *Innotion Enterprises, Inc.*, B-420846.2, Aug. 1, 2022 (unpublished decision).

After conducting corrective action, on January 30, 2023, the agency awarded new contracts for all eleven contract areas. The agency again advised BLM and Innotion that they had not been selected for any of the awards. On February 13, 2023, BLM, Innotion and one other unsuccessful offeror protested the new contract awards. On March 15, 2023, HUD notified our Office that it again was taking corrective action in order to reevaluate proposals and make new source selection decisions. In response, our Office dismissed the protests as academic. *BLM Companies, LLC*, B-420846.5, Mar. 21, 2023 (unpublished decision); *Innotion Enterprises, Inc.*, B-420846.4, Mar. 21, 2023 (unpublished decision).

## Evaluation & Awards Following Corrective Action

Although as noted above, BLM and Innotion each submitted a proposal for 10 contract areas, only six of those contract areas are at issue in BLM's protest (3A/4A, 1D, 2D, 4D/5D, 5P, and 4S/6S) and only seven of those contracts areas are at issue in Innotion's protest (3A/4A, 6A/7A, 1D, 2D, 4D/5D, 5P, and 4S/6S).<sup>5</sup> BLM MOL at 1-2; Innotion MOL at 1-2. Both proposals were found to be technically acceptable for all the areas at issue. The overall past performance ratings and proposed prices of BLM, Innotion, and the awardees for the various contract areas were as follows:

---

<sup>5</sup> Although the protesters initially challenged the agency's evaluation of all the contract areas, our Office previously dismissed four protest grounds pertaining to areas 5A/8A, 6A/7A, 1P/4P, and 3P for BLM and areas 5A/8A, 1P/4P, and 3P for Innotion in response to the agency's dismissal request because they failed to state a valid basis of protest. For example, BLM and Innotion argued that, in evaluating past performance, the agency failed to consider the offerors' performance narratives in evaluating magnitude. BLM Protest at 60-61; Innotion Protest at 62-63. We dismissed this protest ground because it was not supported by the face of the RFP, which clearly advised offerors that although "[t]he narrative shall . . . specifically describe the scope and magnitude of each reference," the RFP made clear that the numbers in a specific magnitude chart "will be used to evaluate the magnitude portion of relevancy for each identified reference[.]" RFP at 142. Because the bases for protest relied on improper assumptions and characterizations concerning the RFP, the protest grounds failed to reasonably establish a violation of statute or regulation and therefore, failed to state valid bases of protest. 4 C.F.R. §§ 21.1(c)(4) and (f).

Area	BLM		INNOTION		AWARDEES		
	Past Perf.	Price	Past Perf.	Price	Past Perf.	Price	Awardee
3A/4A	Poor	\$81,614,915	Poor	\$81,966,795	Good	\$70,543,312	24 Asset Mgmt
1D	Poor	\$51,424,220	Poor	\$51,758,160	Good	\$37,218,578	24 Asset Mgmt
2D	Poor	\$87,717,510	Poor	\$84,406,440	Neutral	\$87,923,347	Spectrum
4D/5D	Poor	\$65,999,430	Poor	\$65,783,460	Good	\$50,304,711	24 Asset Mgmt
5P	Poor	\$81,102,505	Poor	\$81,387,288	Good	\$70,195,067	24 Asset Mgmt
4S/6S	Poor	\$59,990,390	Poor	\$60,585,355	Good	\$54,994,066	Spectrum
6A/7A	----	----	Poor	\$67,140,980	Excellent	\$65,439,356	JGM

AR, Tab 2.02, BLM Past Performance Report (PPR) at 23-28; Tab 1.2, Innotion PPR at 23-28; Innotion Protest, exh. A, Innotion Debriefing at 1-98.<sup>6</sup>

After evaluating all proposals, the agency awarded 11 contracts to the same three companies: 24 Asset Management, Spectrum, and JGM. The agency notified BLM and Innotion that they had not been selected for any of the awards. After receiving debriefings, BLM and Innotion timely filed protests with our Office.

## DISCUSSION

BLM and Innotion challenge HUD's evaluation of their proposals under the past performance factor. BLM argues that its contract references should have received quality ratings higher than marginal and satisfactory. As support for this argument, BLM highlights the fact that pertinent Contractor Performance Assessment Reporting System (CPARS) reports included a statement from the assessing official that "[g]iven what I know today about the contractor's ability to perform in accordance with this contract or order's most significant requirements, I would recommend them for similar requirements in the future." BLM Protest at 57. BLM also alleges that the agency unreasonably downgraded BLM's performance rating on three contracts for not meeting contractual requirements when HUD-assessed scorecards showed performance improvement. *Id.* at 57, 60. Innotion argues that the quality ratings on its contract references were unreasonable because the agency improperly considered the CPARS ratings for the prime contractor on contracts when determining Innotion's quality ratings as a subcontractor on those efforts. Innotion Comments at 12-16. Finally, BLM and Innotion both argue that the RFP did not disclose the definitions for the past performance quality ratings HUD assigned to proposals during its evaluation, and therefore, the agency's

<sup>6</sup> For the one contract area where BLM's and Innotion's prices were not higher than the awardee's price (area 2D), HUD found that the awardee's "modest price premium" was "justified to avoid the known risk posed by the negative past performance demonstrated" by BLM and Innotion, which HUD explained for both offerors included "marginal quality prime contractor performance that failed to improve over time." BLM Protest, exh. B, BLM Debriefing at 17; Innotion Protest, exh. A, Innotion Debriefing at 20. Ultimately, the agency concluded that "[l]ooking beyond the adjectival ratings," Spectrum's proposal "with its slightly higher price," is "the best overall value to the government as it avoids the known risk" in BLM's and Innotion's past performance. *Id.*

evaluation was based on an unstated evaluation criterion.<sup>7</sup> BLM Protest at 57; Innotion Protest at 65. As discussed below, none of the protesters' arguments provide a basis to sustain the protest.

In reviewing an agency's evaluation of past performance, our Office evaluates whether the evaluation was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. *Linchpin Sols., Inc.*, B-419564, May 10, 2021, 2021 CPD ¶ 200 at 4. An agency's evaluation of past performance is, by its nature, subjective, and that evaluation, including the agency's assessments with regard to relevance, scope, and significance, are matters of discretion which we will not disturb absent a clear demonstration that the assessments are unreasonable or inconsistent with the solicitation criteria. *22nd Century Techs., Inc.*, B-418029 *et al.*, Dec. 26, 2019, 2020 CPD ¶ 14 at 11. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. *FN Mfg., LLC*, B-402059.4, B-402059.5, Mar. 22, 2010, 2010 CPD ¶ 104 at 7.

### BLM's Past Performance

BLM challenges the quality ratings of marginal and satisfactory assessed by the agency for BLM's past performance, arguing that the ratings should have been higher.

As noted above, the solicitation instructed offerors to provide five past performance references as part of their proposals and required that the references complete a survey rating the offerors' performance on the pertinent contracts in five different categories. RFP at 140, 142; Tab .10, RFP, attach. 9, Past Performance Survey. Further, the solicitation provided for the evaluation of past performance based on recency, relevancy, quality, and sufficiency. RFP at 148.

For relevancy, the solicitation provided for an evaluation of the scope and magnitude of the offeror's past performance references.<sup>8</sup> *Id.* After evaluating scope and magnitude,

---

<sup>7</sup> Although we do not address all of the protesters' arguments, we have considered them all and find that none provide a basis to sustain the protests.

<sup>8</sup> The RFP defined magnitude as "peak monthly inventory (which includes new inventory assigned during that month as well as inventory carried over from previous months) for which the contractor performs the full scope of property management services." RFP at 142. The solicitation provided for the evaluation of magnitude "in accordance with monthly property assignment ranges set forth in Section L." *Id.* at 148. Section L included a chart defining the number of properties in each service area correlating to a rating of very relevant, relevant, somewhat relevant, or not relevant. For example, for area 3A/4A, a contract with a monthly property assignment of more than 2,834 properties would be rated very relevant; 1,849-2,834 would be rated relevant; 924-1,848 would be rated somewhat relevant; and less than 924 would be not relevant. *Id.* at 142-143. Because the RFP defined different monthly property assignment ranges for the different contract areas, it was possible for an offeror's past performance reference to be evaluated as relevant for some areas and not relevant for others.

the solicitation provided that HUD would “assess relevant past performance efforts for quality.” *Id.* The solicitation also explained that HUD would then “determine an overall level of sufficiency of the past performance information and assess the risk of nonperformance based on the degree of relevancy and level of quality of all recent past performance references.” *Id.* Relevant past performance for both the proposed prime contractor and proposed subcontractor/team members would be considered.

In its proposal, BLM provided three past performance references for contracts where BLM performed as the prime contractor and two past performance references for contracts where BLM performed as a subcontractor.<sup>9</sup> AR, Tab 2.01, BLM Proposal, Past Performance at 24-28. HUD determined that the two contracts where BLM performed as a subcontractor were not relevant for any of the geographic areas and excluded those references from its evaluation. AR, Tab 2.02, BLM PPR at 25-27. For the remaining three references, the agency assessed relevance and quality of performance for the various geographic areas as follows:

Area	D-11 Contract Relevance/Quality	D-13 Contract Relevance/Quality	D-14 Contract Relevance/Quality
3A/4A	Not relevant	Relevant/Marginal	Not relevant
1D	Not relevant	Very relevant/Marginal	Not relevant
2D	Not relevant	Somewhat relevant/Marginal	Not relevant
4D/5D	Somewhat relevant/Marginal	Very relevant/Marginal	Somewhat relevant/Satisfactory
5P	Not relevant	Somewhat relevant/Marginal	Not relevant
4S/6S	Somewhat relevant/Marginal	Very relevant/Marginal	Relevant/Satisfactory

See generally AR, Tab 2.02, BLM PPR.

As relevant here, the agency’s quality assessment of BLM’s performance was based on an assessment of its performance from available CPARS reports and scorecards, which ranged from marginal to satisfactory.<sup>10</sup> In this regard, in assigning the above quality

<sup>9</sup> Specifically, for its performance as a prime contractor, BLM submitted past performance references for the following three HUD contracts: (1) contract No. DU204SA-15-D-11 (D-11 Contract), (2) contract No. DU204SA-15-D-13 (D-13 Contract), and (3) contract No. DU204SA-15-D-14 (D-14 Contract). AR, Tab 2.01, BLM Proposal, Past Performance at 24-28.

<sup>10</sup> The agency explains that HUD issued scorecards on a monthly basis assessing BLM’s performance. BLM COS at 13. At the completion of a contracting period, HUD issued a CPARS report for BLM, taking into consideration the scorecards. *Id.* For purposes of the past performance quality evaluation, if a CPARS report was issued for a reference contract during the date range being evaluated, only the CPARS report was  
(continued...)

ratings, the agency explained that “CPARS were used” and that it “pulled close at hand information such as scorecards,” “consider[ing] each of the 5 elements that made up the scorecards.” AR, Tab 2.02, BLM PPR at 4. The agency explains that it assigned a marginal quality rating where “[p]erformance did not meet some contractual requirements.” *Id.* at 5-6. It assigned a satisfactory quality rating where “[p]erformance met contractual requirements,” but “contain[ed] some minor problems.” *Id.* It assigned a higher than satisfactory quality rating where “[p]erformance met contractual requirements and exceeded some to the Government’s benefit.” *Id.*

The agency evaluated BLM’s D-11 contract for quality only for areas 4D/5D and 4S/6S because the contract was found not relevant for the other areas. With regard to quality for the D-11 contract, HUD evaluated five CPARS reports, noting that “[f]our of the five CPARS from 6/1/2019 – 11/30/2020 received Marginal Quality ratings” and the fifth CPARS “received a Satisfactory rating.” *Id.* at 190 (for 4D/5D); 317 (for 4S/6S). The evaluators also stated that “[i]t was noted in the CPARS [reports] for this contract that BLM had a 58 [percent] failure rate in properly maintaining their assigned properties in ‘Ready to Show’ condition.” *Id.* HUD assessed BLM a quality rating of marginal for this contract. *Id.* at 190 (for 4D/5D), 317-318 (for 4S/6S).

The agency evaluated the D-13 contract for all six areas because it was found to be at least somewhat relevant for all six. For the D-13 contract, HUD stated that “[s]even CPAR[S] [reports] were evaluated for this reference,” and that “[o]f the seven, five had Marginal [quality ratings] and two [had] Satisfactory [q]uality ratings for BLM.” *Id.* at 27 (for 3A/4A); 108 (for 1D); 143-144 (for 2D); 190 (for 4D/5D); 249-250 (for 5P); and 318 (for 4S/6S). The agency also noted that, for this contract, “BLM had an over 62 [percent] failure rate at maintaining properties in ready-to-show condition in the reviews that were rated Marginal.” *Id.* In addition, HUD noted that the “TEP [technical evaluation panel] also evaluated the monthly . . . scorecards [for this contract] during the June [20]20 - July [20]22 period of performance.” *Id.* The agency found that “[w]ith an average of Satisfactory, these reviews reflected some improvements over time in the Prime’s efforts; h]owever, the team had to consider that this performance period was during the onset of the [p]andemic, which paused the ability of HUD staff to conduct field inspections and evaluate the maintenance of property conditions by the contractor.” *Id.* The evaluators explained that “[d]uring this time period, HUD had to rely on monthly desk reviews that were based upon data input into the system of record [by BLM]” and “[t]he evaluation team noted that desk reviews weren’t as reliable as the field reviews” because “[f]ield reviews included HUD staff physically visiting properties to ensure that the contracted work was actually completed.” *Id.* at 27-28 (for 3A/4A), 108 (for 1D), 144 (for 2D), 190 (for 4D/5D), 249-250 (for 5P), 318 (for 4S/5S). Based on all this information, HUD assessed BLM a quality rating of marginal for this contract. *Id.*

Similar to the D-11 contract, the agency evaluated the D-14 contract for quality only for areas 4D/5D and 4S/6S because the contract was found not relevant for the other

---

considered, as “CPARS is the official source for past performance information.” *Id.* (quoting FAR 42.1501(b)). If no CPARS report was issued, scorecards were considered. *Id.*

areas. With regard to the D-14 contract, HUD explained that “[s]ix CPAR[S] from 6/2017 – 9/2021 were evaluated for this reference,” and that “BLM received Satisfactory Quality ratings on 4 assessments and Marginal Quality ratings in 2 assessments.” *Id.* at 190 (for 4D/5D); 318 (for 4S/6S). Ultimately, HUD assessed BLM a quality rating of satisfactory for this contract. *Id.*

In assessing BLM’s proposal an overall sufficiency rating of poor for each of the six areas, HUD explained as follows:

BLM demonstrated that they have or are currently working on a project at or near the scale and level of effort required in the 3.12 FSM Requirement. However, their CPARS [reports] and Scorecards for their Prime efforts did not demonstrate a significant commitment to quality on behalf of HUD. In multiple instances, BLM’s performance did not meet all their contractual requirements. When reviewing the CPARS [reports] for those periods, it was repeatedly noted in the narrative that the Contractor provided plans to the Government on how it would improve performance, but those plans either did not seem to be implemented or were not implemented in such a way as to improve their performance in a timely fashion.

*Id.* at 28 (for 3A/4A), 109 (for 1D), 144-145 (for 2D), 191 (for 4D/5D), and 319 (for 4S/6S).<sup>11</sup>

BLM does not dispute the past performance quality assessments in the CPARS reports or scorecards. Rather, BLM argues that the agency should have assigned these contracts higher quality ratings because the CPARS reports for all three of the contracts reflected that the assessing individual “would recommend [BLM] for similar requirements in the future.” BLM Protest at 57 (quoting Protest, exh. E, CPARS Scorecards).

The agency maintains that its evaluation was reasonably based on the quality of BLM’s performance as reflected in the CPARS reports and scorecards and that the recommendation in the CPARS reports referenced by the protester is simply boilerplate language that does not “speak to the specific rating under the CPARS ‘Quality’ factor.” BLM MOL at 5-6; BLM COS at 18.

Based on our review, we find the agency’s evaluation was reasonable. The record reflects that although the pertinent CPARS reports for BLM include the statement that “[g]iven what I know today about the contractor’s ability to perform in accordance with

---

<sup>11</sup> For area 5P, the evaluators stated that the CPARS reports and scorecards did not “demonstrate a significant commitment to quality on behalf of HUD” and that “[i]n multiple instances,” BLM’s performance “did not meet all their contractual requirements.” *Id.* at 250. The evaluators also noted that “BLM had a greater than 62 [percent] failure rate in maintaining ready-to-show condition” and that the “Past Performance Team had low confidence the Contractor performance would change overall.” *Id.*

this contract or order's most significant requirements, I would recommend them for similar requirements in the future," this statement is quintessential boilerplate language where the assessing official simply checked a box to either recommend or not recommend the contractor for similar requirements in the future. See, e.g., in Area 4P, AR Tab 2.03, BLM 4P CPARS (June 1, 2017-May 31, 2018) and Tab 2.08, BLM 4P CPARS (Aug. 1, 2021-Sept. 30, 2021); in Area 1P, AR Tab 2.10, BLM 1P CPARS (June 1, 2018-May 31, 2019) and Tab 2.13 BLM 1P CPARS (June 1, 2020-Nov. 30, 2020); in Area 5P, AR Tab 2.15, BLM 5P CPARS (June 1, 2018-May 31, 2019) and Tab 2.20, BLM 5P CPARS (Oct. 1, 2021-Nov. 30, 2021).

As the contracting officer explains in response to the protest, "[c]hecking the box providing 'I would recommend' leaves the agency flexibility to continue to exercise options with the contractor at issue," but it does not "speak to the specific rating under the CPARS 'Quality' factor." BLM COS at 18. The record also shows that the marginal and satisfactory ratings provided in the CPARS reports for the quality of BLM's performance (which the protester does not question) are included in a separate section of the CPARS reports, independent from the recommendation section. *Id.* As detailed above, these ratings of marginal and satisfactory were based on BLM's failure to maintain properties in a ready to show condition as required by the contract and failure to implement performance improvement plans. AR, Tab 2.02, BLM PPR at 27 (for 3A/4A); 108 (for 1D); 143-144 (for 2D); 190 (for 4D/5D); 249-250 (for 5P); and 318 (for 4S/6S). In addition, based on the information in BLM's CPARS reports and scorecards, HUD concluded that BLM did not demonstrate a significant commitment to quality on behalf of HUD and that, in multiple instances, BLM's performance did not meet all their contractual requirements. *Id.* at 27, 190.

Although BLM maintains that it should have received higher quality ratings based on the boilerplate language in the recommendation section, the protester has not demonstrated that this statement, standing alone, in any way indicates that the quality of BLM's performance was good or excellent or should have been rated as such. To the extent the protester maintains that HUD should have given more weight to the recommendation statement or interpreted the CPARS reports differently, the protester's disagreement with the evaluation, without more, is not sufficient to render the evaluation unreasonable. We find this argument provides no basis to sustain the protest.

BLM also asserts that the agency unreasonably downgraded its quality of performance rating on these three contracts for not meeting contractual requirements and failing to show performance improvement when HUD-assessed scorecards showed performance improvement. BLM Protest at 57, 60. The protester maintains that, based on this improvement, HUD should have assigned BLM higher performance quality ratings than satisfactory and marginal.

The agency responds that it considered the interim scorecards from 2020 and 2021 and noted "some improvement" in the scorecard ratings over time, but reasonably chose to rely less on the scorecards from 2020 and 2021 than the scorecards from other years because they were generated during the pandemic when agency officials could not "conduct field inspections and evaluate the maintenance of property conditions." BLM

MOL at 6-9; BLM COS at 19. As the contracting officer explains, due to the pandemic, HUD's on-site inspections that are normally part of the quality review in the scorecards was suspended from March 2020 through late 2022. BLM COS at 19. During this time, HUD alternatively conducted desk reviews, which is "an evaluation of data submitted by the contractor." *Id.* The contracting officer further explains that "[b]ecause there are no corresponding field reviews where HUD inspects the contractor's work, these quality reviews as less reliable since they are not verified by HUD and the contractors are aware of that." *Id.* The contracting officer states that "[i]t is natural that a business would self-report favorably or simply miss items that a HUD field inspection might not," and therefore, while the technical evaluation panel "credited BLM with the results of the Scorecard, it felt that these improved scores were not as reliable as the previous ones that were based upon field inspections." *Id.*

We find nothing unreasonable regarding the agency's evaluation. The record reflects that the agency based its evaluation conclusions on a complete picture of BLM's performance, which included marginal and satisfactory CPARS reports ratings and continued failures to meet contractual requirements. AR, Tab 2.02, BLM PPR at 27 (for 3A/4A); 108 (for 1D); 143-144 (for 2D); 190 (for 4D/5D); 249-250 (for 5P); and 318 (for 4S/6S). Although BLM's scorecards from 2020 and 2021 reflect improved ratings, the agency reasonably explained why it afforded less weight to the scorecards from 2020 and 2021, which were based on BLM's own assessment of its performance (as opposed to HUD field inspections). On this record, the agency's wholistic evaluation was reasonable and consistent with the terms of the RFP. Without more, BLM's disagreement with the agency's evaluation fails to demonstrate that the agency's evaluation was unreasonable. On this record, the protester's argument fails to provide a basis upon which to sustain the protest.

#### Innotion's Past Performance

Innotion also challenges the agency's evaluation of its past performance. As relevant here, three of Innotion's contract references were for efforts that it performed as a subcontractor to BLM. Innotion contends that the agency unreasonably downgraded Innotion's performance quality ratings on these three subcontracts based on the marginal CPARS ratings that BLM received for its performance as the prime contractor on these efforts. Innotion Protest at 63. Innotion argues that HUD should not have considered BLM's CPARS ratings for these contracts when determining Innotion's quality ratings as a subcontractor on those efforts.

As discussed above, the solicitation instructed offerors to provide five past performance references as part of their proposals and required that the references complete a survey where they rated the offeror's performance on the pertinent contracts in five different categories. RFP at 140, 142; AR, Tab .19, RFP, attach. 9, Past Performance Survey. As also noted previously, in this regard, the RFP required offerors to submit a past performance information chart, provided as attachment 8 of the solicitation, which reflected all relevant past performance performed in the three-year period immediately preceding submission of the proposals, and as relevant here, required offerors to fill in the "Type of Services Provided" to their clients as well as the magnitude of its

performance under the contracts. AR, Tab .09, RFP attach. 8, Past Performance Info Chart.

In its proposal, Innotion provided five references, two of which were contracts where Innotion was the prime FSM contractor and three where Innotion provided services for HUD FSM contract areas 1P, 4P, and 5P as a subcontractor to BLM.<sup>12</sup> Innotion Protest, exh. C, Innotion Past Performance Info Chart at 19-26. For the three contracts where Innotion was a subcontractor to BLM, Innotion's proposal included surveys completed by BLM regarding the performance of Innotion on those subcontracts. Innotion Protest, exh. D, Innotion Past Performance Surveys. In addition, in Innotion's past performance information chart, Innotion identified 31 different types of services that Innotion provided to BLM for the three contracts where it performed as BLM's subcontractor. Innotion Protest, exh. C, Innotion Past Performance Info Chart at 19-26. With regard to the two contracts where Innotion was the prime FMS contractor, Innotion's past performance information chart identified that it provided the exact same 31 types of services directly to HUD in performance of those contracts as it provided to BLM in its performance of the three contracts where it was BLM's subcontractor. *Id.*

In addition, as relevant here, the solicitation required that offerors provide information in their past performance information charts regarding the "magnitude" of an offeror's performance for each contract identified. RFP at 142. The RFP defined magnitude as "peak monthly inventory" for which the contractor performs "the full scope of property management services." *Id.* With regard to magnitude, Innotion's past performance information chart did not distinguish between properties it serviced as a subcontractor and the properties serviced by BLM as the prime contractor; rather, Innotion claimed credit as the subcontractor for the full magnitude of the BLM prime contracts it identified for contract areas 1P, 4P, and 5P. *See, e.g.,* Innotion Protest, exh. C, Innotion Past

---

<sup>12</sup> For the two contracts where Innotion performed as the prime contractor (contract No. DU204SA-17-D-11/TO 866145-19-F-00004 and contract No. DU204SA- 17-D-11/TO 866160-19-F-00003), the agency assessed Innotion past performance quality ratings of marginal and satisfactory, respectively. AR, Tab 1.2, Innotion PPR at 32. With regard to the contract where the agency assessed the marginal quality rating, the agency noted that it considered four CPARS reports on which Innotion received two marginal and two not satisfactory quality ratings. *Id.* The evaluators stated that Innotion "received a defective performance letter for [its] consecutive failures in promoting HUD properties." *Id.*

Ultimately, based on the evaluation of these two prime contracts and the three subcontracts, the agency assessed Innotion an overall past performance rating of poor/very high risk/low confidence. *Id.* at 36. The evaluators explained that Innotion's "relevant reference projects demonstrated that they have recently worked projects at or near the scale and level of effort required" but that "their CPAR[S] [reports] and Scorecards for their Prime efforts were split between Marginal and Satisfactory." *Id.* at 36-37. The agency noted that it took into consideration "the performance surveys submitted by BLM on Innotion's behalf but also the overall contract performance which was rated as Marginal for two contracts and Satisfactory for the other." *Id.* at 37.

Performance Info Chart at 19-26, *id.* at 28, 29 (stating “[t]he 1P area has a peak inventory of 1,889 assets per month”; “[t]he 4P area has a peak inventory of 2,079 assets per month”; and “[t]he 5P area has a peak inventory of 4,103 assets per month.”).

In evaluating Innotion’s past performance in contract areas 1P, 4P, and 5P, the evaluators gave credit to Innotion for the magnitude Innotion indicated in its past performance information chart.<sup>13</sup> AR, Tab 1.2, Innotion PPR at 30-32, 76-78, 111-113, 132-134, 178-180, 251-253, and 325-328. Based on this and because of the 31 types of services Innotion indicated it provided under its subcontracts to BLM, HUD rated Innotion’s past performance under its three subcontracts as highly relevant in terms of scope for all three contract areas. *Id.*

With regard to HUD’s evaluation of the quality of Innotion’s three subcontracts, the evaluators noted that Innotion received exceptional ratings across the board from BLM, the prime contractor, for all three of Innotion’s subcontracts. AR Tab 1.2, Innotion PPR at 32-36, 78-82, 111-116, 132-138, 180-184, 254-257, and 328-332. In addition to reviewing these past performance surveys, HUD pulled the CPARS reports and scorecards for BLM for the three contracts. *Id.* For example, for contract area 1P, the evaluators noted that “[f]ive CPARS [reports] were obtained from 6/1/18 – 11/30/20 for BLM for this area and they showed that performance under the contract was on average Marginal.” *Id.* at 33; *see also id.* at 33-34 (noting that six CPARS reports were obtained for BLM for contract area 4P and all showed on average satisfactory performance); *id.* at 34 (stating that seven CPARS reports were evaluated for BLM for the contract area 5P reference, five of which had marginal quality ratings and two of which had satisfactory quality ratings for BLM, and indicating overall that BLM had over a 62 percent failure rate at maintaining properties in ready-to-show condition).

Based on consideration of all past performance information for these contracts, HUD determined that the overall contract performance quality for these contracts for the 1P, 4P, and 5P contract areas during the evaluation period was marginal, satisfactory, and marginal, respectively. *Id.* In making this determination and giving more credit to the BLM CPARS reports (that indicated marginal and satisfactory performance) than the results of the surveys completed by BLM for Innotion (that indicated exceptional performance across the board), the evaluators stated that “HUD finds no persuasive reason to believe that the assessment of a sometimes marginally performing prime contractor [*i.e.*, BLM] would be more reliable than HUD’s own direct assessment of marginal performance under the contract, particularly where the subcontractor is performing services reviewed as Marginal.” *Id.* at 35.

Innotion does not allege that it did not perform the FSM work that was assessed as marginal by HUD in the CPARS reports for BLM’s prime contract. Innotion Protest at

---

<sup>13</sup> In response to the protest, the contracting officer explains that, based on BLM’s inventory numbers from HUD’s real-estate owned inventory tracking system, HUD found that the peak inventory numbers for the three contracts were actually lower than the numbers claimed by Innotion in its proposal. Innotion COS at 11.

63-65; see also Innotion Resp. to Agency Req. for Dismissal at 9. Innotion also does not contend that HUD's assessments of the CPARS reports for those BLM contracts were inaccurate; nor does Innotion argue that BLM's CPARS reports do not accurately assess Innotion's own performance under those contracts. *Id.* Rather, Innotion maintains that HUD should not have considered BLM's CPARS ratings for these contracts when determining Innotion's quality ratings as a subcontractor on those efforts. Innotion Protest at 63.

We find nothing unreasonable regarding the agency's evaluation. The solicitation provided that HUD could consider past performance information beyond what was provided by the offerors. RFP at 149 ("HUD is not restricted to evaluating the information provided by the offeror or the surveys provided by references and may utilize information obtained from any source"). The solicitation also provided that HUD would evaluate an offeror's past performance references for quality. *Id.* at 148. Additionally, as noted by the agency, FAR section 15.305(a)(2)(i) specifically requires that in evaluating past performance information, the source of the information and context of the data must be considered.

The record reflects that Innotion submitted three references where it provided services to HUD FSM contract areas 1P, 4P, and 5P as BLM's subcontractor. Innotion Protest, exh. C, Innotion Past Performance Info Chart at 19-26. Because the record also shows that Innotion did not distinguish between its work on these subcontracts and BLM's work on the prime contracts, and in fact, claimed relevancy (scope and magnitude) credit for the whole effort, we find reasonable HUD's explanation that it could not reasonably distinguish between Innotion's performance and BLM's performance on these contracts. It is an offeror's responsibility to submit a well-written proposal that allows for meaningful review. *Environmental Restoration, LLC*, B-417080, Feb. 5, 2019, 2019 CPD ¶ 155 at 9.

Further, as the agency notes, while "BLM may genuinely believe that Innotion's performance was 'Exceptional,'" in light of "BLM's own weak performance" as reflected in the CPARS reports, "HUD was reasonably skeptical that BLM was a credible source for identifying 'Exceptional' performance." Innotion MOL at 5. Given the choice of either accepting BLM's assessment of Innotion's performance or considering HUD's own assessment of the quality of performance on the BLM contracts at issue, we find nothing unreasonable regarding the agency's decision to credit Innotion with the quality ratings of the prime contract. This protest ground is denied.

#### Unstated Evaluation Criterion/Undisclosed Internal Methodology

BLM and Innotion argue that the RFP did not disclose the definitions for the past performance quality ratings HUD assigned to proposals during its evaluation, and therefore, the agency's evaluation was based on an unstated evaluation criterion. BLM Protest at 57; Innotion Protest at 65. The agency contends that it did not apply an unstated evaluation criterion because the solicitation expressly provided that the agency would assess the quality of recent and relevant past performance references and

maintains that it was not required to disclose the specific rating methodology that it used during its evaluation. BLM MOL at 6; Innotion MOL at 3.

In a negotiated procurement, an agency must evaluate proposals based on the solicitation's enumerated evaluation factors. FAR 15.305(a); *DA Def. Logistics HQ*, B-411153.3, Dec. 2, 2015, 2015 CPD ¶ 358 at 4. An agency may properly apply evaluation considerations that are not expressly identified in the RFP if those considerations are reasonably and logically encompassed within the stated evaluation criteria and there is a clear nexus linking them. *SupplyCore, Inc.*, B-411648.2, B-411648.3, Feb. 21, 2017, 2017 CPD ¶ 72 at 9. Agencies need not disclose evaluation standards or guidelines for rating proposals as more desirable or less desirable, since agencies are not required to inform offerors of their specific rating methodology. See *Open Sys. Sci. of Virginia, Inc.*, B-410572, B-410572.2, Jan. 14, 2015, 2015 CPD ¶ 37 at 11; *Arcus Properties, LLC*, B-406189, Mar. 7, 2012, 2012 CPD ¶ 107 at 8. Rather, the rating system used need only be consistent with the terms of the solicitation. *Id.*

We find no merit to the protesters' argument. The solicitation clearly provided that HUD would evaluate an offeror's past performance efforts for quality. RFP at 148. In evaluating quality, the record shows that HUD assessed the quality of the offerors' past performance as: exceptional, very good, satisfactory, marginal, unsatisfactory, or neutral. AR, Tab 1.2, Innotion PPR at 5-6. The protester has failed to demonstrate--and we otherwise fail to see--any inconsistency between the RFP evaluation criteria and the agency's evaluation method.<sup>14</sup> As referenced above, agencies need not disclose evaluation standards or guidelines for rating proposals as more desirable or less

---

<sup>14</sup> Innotion also contends that the agency improperly evaluated offerors' past performance quality based on unstated past performance quality subfactors, such as business relations. Innotion's Comments at 11. As relevant here, the past performance survey, provided with the RFP at attachment 9, sought ratings in the following five service areas: quality service, schedule, cost control, business relations, and management of key personnel. RFP, attachment 9, Past Performance Survey. To the extent the protester asserts that it was improper for the agency to consider during its evaluation the ratings provided for offerors for these service areas in the past performance survey provided with the RFP, the protester's argument constitutes an untimely challenge to the terms of the solicitation as these terms were present when the agency issued the solicitation. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1).

desirable, since agencies are not required to inform offerors of their specific rating methodology. The protesters' objections to HUD's evaluation methodology do not provide a basis upon which to sustain the protests.<sup>15</sup>

The protests are denied.

Edda Emmanuelli Perez  
General Counsel

---

<sup>15</sup> BLM and Innotion also argue that because the underlying evaluation was flawed, the agency's price-performance tradeoff was unreasonable. BLM Protest at 59; Innotion Protest at 67. This allegation is derivative of the protesters' challenges to the agency's evaluation, all of which have been denied as set forth above. Thus, we dismiss this allegation because derivative allegations do not establish an independent basis of protest. *Advanced Alliant Solutions Team, LLC*, B-417334, Apr. 10, 2019, 2019 CPD ¶ 144 at 6.