



**DOCUMENT FOR PUBLIC RELEASE**

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

# Decision

**Matter of:** A Square Group, LLC

**File:** B-421792.5

**Date:** April 11, 2025

---

David B. Dixon, Esq., Toghrul M. Shukurlu, Esq., and Aleksey Dabbs, Esq., Pillsbury Winthrop Shaw Pittman LLP, for the protester.

Elizabeth N. Jochum, Esq., David Bodner, Esq., Samarth Barot, Esq., Blank Rome LLP, for Cogent People, Inc., the intervenor.

Damon A. Brown, Esq., Department of Health and Human Services, for the agency.

Michelle Litteken, Esq., and Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

## DIGEST

1. Protest challenging agency's evaluation of the awardee's quotation and selection of the awardee as the best-suited vendor is denied where the evaluation and best-suited vendor determination were reasonable and consistent with the terms of the solicitation.
  2. Protest alleging exchanges conducted solely with the awardee were unreasonable and unfair is denied where the exchanges were conducted in accordance with the terms of the solicitation.
- 

## DECISION

A Square Group, LLC (ASG), a small business of Rockville, Maryland, protests the issuance of a task order to Cogent People Inc. (Cogent), a small business of Columbia, Maryland, under request for quotations (RFQ) No. 230314, issued by the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for health insurance marketplace and financial management operational analytics. The protester challenges the agency's evaluation of Cogent's quotation and best-suited vendor determination, as well as CMS's conduct of exchanges.

We deny the protest.

## BACKGROUND

CMS is responsible for management and oversight of large portions of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18001-18122, and related legislation. Agency Report (AR), Tab 3b, Statement of Work (SOW) at 6. The RFQ sought a contractor to perform data and operational analytics related to the agency's operations under the Patient Protection and Affordable Care Act. Contracting Officer's Statement (COS) at 1. CMS issued the RFQ on February 15, 2023, as a small business set-aside, pursuant to Federal Acquisition Regulation (FAR) section 8.405-3, seeking quotations from holders of General Services Administration multiple award schedule contracts under special item numbers 54151S (information technology professional services) and 541611 (management and financial consulting, acquisition and grants management support, and business program and project management services).<sup>1</sup> AR, Tab 2a, RFQ Cover Letter at 1.

The RFQ contemplated the issuance of a time-and-materials task order to the vendor whose quotation represented the best value to the agency, considering five factors, listed in descending order of importance: (1) technical understanding and approach; (2) corporate experience, personnel qualifications, and key personnel; (3) quality assurance plan/quality surveillance plan (QAP/QSP); (4) management and staffing plan; and (5) price.<sup>2</sup> AR, Tab 4b, RFQ attach. 2 at 14-15. The RFQ provided that the nonprice factors, when combined, were significantly more important than price, but "as the degree of technical equality increases between quotes, cost/price will become more important." *Id.* at 14. Relevant here, the RFQ stated: "Once the Government determines the Offeror that is the best-suited (*i.e.*, the apparent successful Offeror), the Government reserves the right to communicate with only that Offeror to address any remaining issues, if necessary, and finalize a Task Order with that Offeror. These issues may include technical and price." *Id.* at 14.

### History of Procurement and Protests

This protest marks the fourth time that an unsuccessful vendor has protested the agency's award decision under the RFQ with our Office. By way of background, in response to the RFQ, CMS received seven quotations, evaluated the quotations, conducted a best-suited vendor determination, and eliminated four quotations from further consideration. COS at 2. The agency conducted exchanges with the three

---

<sup>1</sup> CMS amended the RFQ four times. COS at 2. All citations of RFQ attachment 2, instructions and evaluation criteria, refer to the version issued with amendment 2, submitted as agency report Tab 4b.

<sup>2</sup> The RFQ included two additional factors, section 508 compliance and past performance, which were evaluated but not scored or rated. RFQ attach. 2 at 17. Though not at issue in this decision, section 508 refers to the Rehabilitation Act of 1973, as amended, which generally requires that agencies' electronic and information technology be accessible to people with disabilities. See 29 U.S.C. § 794d.

remaining vendors, including Cogent and ASG, requested revised quotations, evaluated the revised quotations, and issued the task order to ASG on June 27, 2023. *Id.* at 3; Protest at 4.

On July 7, Cogent filed a protest with our Office, B-421792, challenging various aspects of the agency's evaluation, the agency's conduct of exchanges, and the award decision. COS at 3. Thereafter, the agency elected to take corrective action by conducting exchanges with the best-suited vendors, evaluating revised quotations, and making a new award decision. Based on the proposed actions, our Office dismissed the protest as academic. *Cogent People Inc.*, B-421792, Aug. 1, 2023 (unpublished decision).

On October 4, 2023, as part of its corrective action, CMS requested revised quotations from Cogent and ASG.<sup>3</sup> COS at 2. Thereafter, CMS evaluated the revised quotations and selected Cogent as the best-suited vendor. In making this decision, CMS found that Cogent's proposed price was \$6.6 million lower than ASG's proposed price, and although Cogent's quotation had a "slightly lower overall technical rating," it provided the better value because of its lower proposed price.<sup>4</sup> AR, Tab 8f, Technical Evaluation Panel (TEP) Report at 3. After requesting and receiving quotation revisions from Cogent, the agency issued the task order to Cogent on February 26, 2024. COS at 2-4.

On March 7, 2024, ASG filed a protest with our Office, challenging the agency's consideration of an alleged impaired objectivity organizational conflict of interest (OCI); numerous aspects of the agency's evaluation of Cogent's quotation; the best-suited vendor determination; CMS's conduct of exchanges; and the best-value tradeoff decision. With respect to the impaired objectivity OCI allegation, ASG argued that issuing the task order to Cogent gave rise to an OCI because Cogent's proposed subcontractor would be validating payment and enrollment data that it produced under a related contract.

In June 2024, we sustained ASG's protest on the bases that CMS unreasonably concluded that Cogent's OCI mitigation strategy would avoid the impaired objectivity OCI and failed to reasonably consider the impact of Cogent's OCI mitigation strategy on its technical approach. *A Square Grp., LLC*, B-421792.2, B-421792.3, June 13, 2024, 2024 CPD ¶ 139 at 6. We recommended that the agency conduct a new OCI

---

<sup>3</sup> CMS asked both vendors to review their proposed pricing and level of effort and "provide additional cost reductions where you deem that efficiencies could be realized." AR, Tab 8d, Negotiation Memorandum at 30. ASG did not change its proposed price; Cogent reduced its price by approximately \$4 million. *Id.*

<sup>4</sup> At this time, ASG's second revised quotation was rated as high confidence under all of the technical factors, and Cogent's second revised quotation was rated as some confidence under the technical understanding and approach factor (the most important factor) and as high confidence under the other technical factors. AR, Tab 8f, TEP Report at 2-3.

evaluation and noted that in carrying out the corrective action, the agency might need to solicit revised quotations. *Id.* at 13.

In July, in response to our decision, the contracting officer revisited the prior best-suited vendor determination, summarized the various positive and negative aspects of ASG's and Cogent's quotations, and concluded that Cogent's quotation "continues to provide the Government with a better value than ASG's quote." AR, Tab 8e, Best-Suited Vendor Determination at 1. Based on that affirmation of the prior best-suited vendor determination, the contracting officer determined that exchanges would be conducted with only Cogent to address various issues, including "any conflicts of interest identified by GAO in its decision[.]" *Id.* at 1. Thereafter, the agency sent Cogent two exchange questions, requesting that Cogent review and revise its quotation and mitigation plan to exclude staff from its conflicted subcontractor from involvement with payment validation processes. COS at 7, 9. After receiving Cogent's fifth revised quotation, in which it revised its proposed staffing as requested, CMS sent a second set of exchanges to confirm the availability of Cogent's proposed key personnel. *Id.* Upon receiving Cogent's response confirming the availability of proposed key personnel, CMS issued the task order to Cogent on September 23, 2024. *Id.* at 8.

On October 3, ASG filed a protest with our Office, B-421792.4, challenging the agency's evaluation of Cogent's revised technical approach, the agency's conduct of exchanges, and its consideration of the alleged OCI. In response, CMS elected to, yet again, take corrective action by reevaluating quotations, conducting exchanges, and making a new award decision. Based on the proposed actions, our Office dismissed the protest as academic. *A Square Grp., LLC*, B-421792.4, Oct. 30, 2024 (unpublished decision).

#### Current Evaluation and Award

During the most recent corrective action, CMS reviewed Cogent's fifth revised quotation and OCI mitigation plan, concluded that the mitigation measures reflected in the revised staffing did not have a material effect on Cogent's technical approach or pricing, and found there was therefore no need to change the prior evaluation findings.<sup>5</sup> COS at 10; see also AR, Tab 8f, TEP Report at 9-19. Nonetheless, CMS elected to execute an OCI waiver, pursuant to FAR section 9.503, "out of an abundance of caution[.]"<sup>6</sup> MOL at 2; see AR, Tab 11a, OCI Waiver at 1-14.

---

<sup>5</sup> More specifically, the TEP determined that the revised mitigation plan did not materially change Cogent's technical approach, project organizational structure, personnel qualifications, or price. AR, Tab 8f, TEP Report at 24; COS at 8.

<sup>6</sup> The FAR requires that contracting officials avoid, neutralize, or mitigate significant potential conflicts of interest to prevent an unfair competitive advantage or the existence of conflicting roles that might impair a contractor's objectivity. FAR 9.504(a), 9.505. The FAR also provides that an agency may, as an alternative to avoiding, neutralizing, or mitigating an OCI, execute a waiver determining that application of the FAR's OCI provisions in a particular circumstance is not in the government's interest. FAR 9.503.

Because CMS found no changes to the prior evaluation findings were needed, the ratings assigned to the vendors' quotations were unchanged since CMS first issued the task order to Cogent in February 2024 and were as follows:

	ASG	Cogent
<b>Technical Understanding and Approach</b>	High Confidence	Some Confidence
<b>Corporate Experience, Personnel Qualifications, Key Personnel</b>	High Confidence	High Confidence
<b>QAP/QSP</b>	High Confidence	Some Confidence
<b>Management and Staffing Plan</b>	High Confidence	High Confidence
<b>508 Compliance</b>	Evaluated	Evaluated
<b>Past Performance</b>	Evaluated	Evaluated
<b>Proposed Price</b>	\$37,285,259	\$30,648,172

AR, Tab 8f, Technical Evaluation at 7, 9.

On January 14, 2025, CMS issued the task order to Cogent, and after receiving a brief explanation of award, ASG filed this protest. COS at 8.

## DISCUSSION

ASG challenges the agency's evaluation of Cogent's quotation and the resulting best-suited vendor determination. ASG also alleges that CMS's exchanges with Cogent were unreasonable and unfair.<sup>7</sup> For the reasons discussed below, we deny the protest.

### Evaluation of Cogent's Quotation and Best-Suited Vendor Determination

As noted above, when the agency took corrective action following GAO's June 2024 decision sustaining ASG's protest, CMS first reaffirmed its selection of Cogent as the best-suited vendor and then conducted additional exchanges with Cogent. COS at 7; see also AR, Tab 8e, Best-Suited Vendor Determination at 26-29. The protester contends this was unreasonable, complaining that the 29-page document supporting the agency's renewed best-suited vendor determination does not specifically address the flaws identified in the GAO decision. More specifically, ASG asserts that CMS should have downgraded Cogent's quotation because of inconsistencies between Cogent's proposed mitigation plan and its technical approach; identified ASG as the best-suited vendor; and conducted exchanges with ASG. Comments at 2-5.

The agency responds that, following GAO's June 2024 decision, the contracting officer performed and documented a detailed review of ASG's and Cogent's quotations,

---

<sup>7</sup> Initially, ASG also protested the agency's consideration of the alleged impaired objectivity OCI involving Cogent's proposed subcontractor. Protest at 14-18. The protester withdrew the allegation after receiving the agency report. Comments at 2 n.1.

considered both the positive and negative aspects of each quotation, and concluded: “Based on the combined value of their non-price findings and their overall lower proposed price, I have determined that Cogent’s quote continues to be overall higher rated and provides the Government with a better value than ASG’s quote, and I reaffirm my determination that Cogent is the best-suited offeror.” AR, Tab 8e, Best-Suited Vendor Determination at 28; see *also* COS at 7; MOL at 6-7.

At the outset, we note that where, as here, an agency issues an RFQ to vendors under FAR subpart 8.4 and conducts a competition for the issuance of an order or establishment of a blanket purchase agreement, we will review the record to ensure that the agency’s evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. *ARC Relocation, LLC*, B-416035.2, B-416035.3, Nov. 22, 2019, 2019 CPD ¶ 407 at 8. The evaluation of vendors’ technical quotations is a matter within the agency’s discretion, and GAO will not perform its own technical evaluation, or substitute its judgment for that of the procuring agency. *Appsential, LLC*, B-419046.2 *et al.*, Jan. 22, 2021, 2021 CPD ¶ 63 at 10; *Metropolitan Interpreters & Translators, Inc.*, B-415080.7, B-415080.8, May 14, 2019, 2019 CPD ¶ 181 at 6. Rather, GAO will examine the record to determine whether the agency’s judgments were reasonable and consistent with the solicitation’s stated evaluation criteria and applicable procurement statutes and regulations. *Appsential, supra*. A protester’s disagreement with the agency’s judgments, without more, does not establish that an evaluation was unreasonable. *Id.*

Here, we find no basis to object to the agency’s evaluation of Cogent’s quotation or its renewed best-suited vendor determination following GAO’s decision. As noted above, the record establishes that, as part of its corrective action, the agency reassessed the two quotations, exercised its judgment in concluding that Cogent’s quotation provided CMS with better value, and affirmed its prior best-suited vendor determination. See *generally* AR, Tab 8e, Best-Suited Vendor Determination. While ASG expresses its disagreement with the agency’s judgment in this regard, its arguments fail to establish that the evaluation and determination were unreasonable. As noted above, in best-value procurements, source selection officials have broad discretion in making price and technical tradeoff decisions. *DPRA, Inc.*, B-421592, July 17, 2023, 2023 CPD ¶ 189 at 9. Even where price is the least important factor, an agency may properly select a lower-priced, lower-rated quotation where the source selection official reasonably concludes that the price premium associated with the higher-rated, higher-priced quotation is not justified. *Id.*

Our review of the record establishes that the agency was aware of the advantages in ASG’s quotation and reasonably determined those advantages were not worth paying a higher price.<sup>8</sup> *DPRA, supra*. Accordingly, ASG has not established that the agency’s

---

<sup>8</sup> Additionally, the record shows that the contracting officer was aware of our Office’s decision finding there were inconsistencies between Cogent’s technical approach and its mitigation plan and, nonetheless, concluded that “there were no material changes to the findings upon which the [best-suited vendor] analysis was based.” COS at 9.

evaluation of Cogent's quotation and selection of Cogent as the best-suited vendor were unreasonable or contrary to the terms of the solicitation. Its protest in that regard is denied.<sup>9</sup>

### Conduct of Exchanges

ASG also challenges the agency's conduct of exchanges, complaining that the "extensive discussions [with Cogent] could not reasonably [be] done on a unilateral basis and underscores the flaws in Cogent's technical quotation that were overlooked in the best-suited offeror analysis." Comments at 6. The protester asserts that the agency held unequal and unfair discussions. *Id.* at 6-7. CMS responds that the exchanges were consistent with the terms of the RFQ. MOL at 9.

Where an agency chooses to conduct exchanges with vendors in a FAR subpart 8.4 procurement, the exchanges, like all other aspects of such a procurement, must be fair and equitable; our Office has looked to the standards in FAR part 15 for guidance in making this determination. *Aurotech, Inc.*, B-413861.4, June 23, 2017, 2017 CPD ¶ 205 at 10. In this regard, FAR part 15 defines clarifications as "limited exchanges" that agencies may use to allow offerors to clarify certain aspects of their proposals (or in this case, quotations), or to resolve minor clerical mistakes. See FAR 15.306(a)(1),(2); *Sky Solutions, LLC*, B-421139.2, B-421139.3, June 30, 2023, 2023 CPD ¶ 184 at 6. In contrast, under FAR part 15, discussions occur when an agency communicates with an offeror for the purpose of obtaining information essential to determining the acceptability of a proposal or quotation or provides the offeror with an opportunity to revise or modify its proposal or quotation. *Innovative Mgmt. & Tech. Approaches, Inc.*, B-418823.3, B-418823.4, Jan. 8, 2021, 2021 CPD ¶ 18 at 8.

The issue presented in this protest is not unique; we have previously resolved protests involving similarly worded solicitation provisions that allowed an agency to address any issues, including technical or price, only with the best-suited contractor, including in a FAR subpart 8.4 procurement. See *Sky Sols.*, *supra*. In that decision and others, our Office concluded that an agency's communications were proper and permissible when it

---

<sup>9</sup> ASG also asserts that CMS should have downgraded Cogent's quotation under the corporate experience, personnel qualifications, and key personnel factor because CMS credited Cogent with the experience and personnel of its conflicted subcontractor, and the conflicted subcontractor would be firewalled from performing certain tasks. Comments at 4. We disagree. The record demonstrates that the TEP understood that Cogent replaced all of the conflicted subcontractor personnel with "highly qualified personnel" from Cogent and another subcontractor, and the TEP found "the workload was easily redistributed between the remaining tasks without any impact on their technical approach, personnel qualifications or their ability to successfully support all tasks on the contract." AR, Tab 8f, TEP Report at 11. The TEP concluded that there was no reason to change the ratings assigned to Cogent's quotation, and to the extent the protester disagrees, such disagreement does not establish that the evaluation was unreasonable. *Appsential, supra*.

conducted exchanges with the apparent successful offeror or vendor. See *id.* at 6; *VariQ-CV JV, LLC*, B-418551, B-418551.3, June 15, 2020, 2020 CPD ¶¶ 196 at 18-20.

Based on our review of the record, we find that CMS reasonably engaged in exchanges with Cogent, consistent with the terms of the RFQ. The RFQ stated that once the agency determined the best-suited vendor, it reserved the right to communicate with that vendor to resolve any remaining issues. RFQ attach. 2 at 14. Here, in July 2024, following the decision sustaining ASG’s prior protest, CMS revisited its best-suited vendor determination and confirmed that Cogent remained the best-suited vendor.<sup>10</sup> AR, Tab 8e, Best-Suited Vendor Determination at 26-29; COS at 7. The agency held two additional rounds of exchanges with Cogent and selected Cogent’s quotation for award. COS at 3, 7-8. While ASG complains that the agency improperly conducted multiple rounds of exchanges with Cogent, the RFQ did not limit the number of rounds of exchanges that would be held. CMS held exchanges with the vendor it reasonably determined was the best-suited vendor--in accordance with the RFQ--and ASG’s arguments do not provide a basis to sustain the protest.<sup>11</sup> See *IBSS Corp.*, B-422757 *et al.*, Oct. 18, 2024, 2024 CPD ¶¶ 258 at 16.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel

---

<sup>10</sup> To the extent that ASG challenges the exchanges that occurred from when CMS selected Cogent as the best-suited vendor during the first voluntary corrective action in December 2023, until the second award decision in February 2024, ASG previously raised this argument, and we concluded that it did not provide a basis to sustain the protest. *A Square Grp., LLC*, B-421792.2, B-421792.3, June 13, 2024, 2024 CPD ¶¶ 139 at 6.

<sup>11</sup> The protester also complains that “the agency report does not address the fact that GAO recommended that CMS seek revised ‘quotations’ from both Cogent and ASG or explain why it did not comply with this recommendation.” Comments at 6. The protester mischaracterizes our prior decision, which states “the agency *may* need to solicit revised quotations.” *A Square Grp., LLC*, B-421792.2, B-421792.3, June 13, 2024, 2024 CPD ¶¶ 139 at 13 (emphasis added).