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Decision

Matter of: Hudson Technologies Company

File: B-424395; B-424395.2; B-424395.3

Date: July 7, 2026

Aron C. Beezley, Esq., Steven C. Herrera, Esq., and Jenna R. Mazzella, Esq., Bradley Arant Boult Cummings LLP, for the protester.
Hal J. Perloff, Esq., Samuel W. Jack, Esq., and Bhargavi Kalaga, Esq., Husch Blackwell LLP, for RGAS LLC, the intervenor.
Robert E. Sebold, Esq., Defense Logistics Agency, for the agency.
Kenneth Kilgour, Esq., and Heather Weiner, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that the agency unreasonably relied on awardee's certification that it was offering domestic end products is denied where the record reflects the reasonableness of the agency's evaluation.
 2. Protest challenging agency's past performance evaluation is denied where the evaluation was consistent with the requirements of the solicitation and reasonable.
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DECISION

Hudson Technologies Company, of Woodcliff Lake, New Jersey, protests the award of a contract to RGAS LLC, of Houston, Texas, under request for proposals (RFP) No. SPE4A7-25-R-0788, issued by the Defense Logistics Agency (DLA) for hydrofluorocarbon (HFC) gases. The protester asserts that the agency unreasonably relied on the awardee's domestic end product certification and unreasonably evaluated the awardee's past performance.

We deny the protest.

BACKGROUND

On August 1, 2025, DLA issued the solicitation in accordance with Federal Acquisition Regulation (FAR) part 12 (acquisition of commercial items/services) and part 15 (contracting by negotiation), seeking to award one or more fixed-price indefinite-

delivery, indefinite-quantity contracts for eleven types of HFC gases, listed by national stock number (NSN).¹ Agency Report (AR), Tab 3, RFP at 3. Offerors also were to provide cylinders listed under NSN 8120-01-204-0182 and NSN 8120-01-316-2208. *Id.* The solicitation contemplated the award of the contracts on a line-by-line basis for a one-year base period and two one-year option periods. *Id.* Award was to be made on a lowest-priced, technically acceptable basis, considering price and two technical factors--technical capability and past performance--which were to be evaluated as acceptable or unacceptable. AR, Tab 3(3), RFP sects. L & M at 1; Tab 4, SAM Synopsis at 2. The evaluation of technical capability is not at issue in this protest.

With regard to past performance, the RFP advised offerors that the agency would evaluate recent and relevant past performance to assess the government's confidence in the offeror's ability to perform as proposed. RFP at 3. The RFP defined current past performance as "ongoing or completed within the last three calendar years from the solicitation open date" and relevant past performance as supplying services and products that are "the same or similar in scope, complexity, and magnitude (*i.e.*, dollar value, volume) to the requirements of the solicitation." *Id.* The past performance evaluation was to consider the number and severity of problems, the effectiveness of any corrective actions taken, and the offeror's overall performance record. *Id.* The RFP did not request offerors to submit any past performance information. *Id.*; Supp. Contracting Officer's Statement and Memorandum of Law (Supp. COS/MOL) at 2. Rather, the solicitation advised offerors that the agency would evaluate "suppliers' past performance"² using the Supplier Performance Risk System (SPRS).³ *Id.* Under the past performance factor, the RFP defined an acceptable proposal as one that provides the government "a reasonable expectation that the offeror will successfully perform the required effort." RFP at 7.

The RFP incorporated Defense Federal Acquisition Regulation Supplement (DFARS) provision 252.225-7000, Buy American--Balance of Payments Program Certificate (Buy American certificate), which requires offerors to certify whether their proposed products are domestic end products from the United States, foreign end products from a

¹ Citations to the record use the Adobe PDF pagination of the documents produced.

² In response to the protest, the agency explained that, for purposes of the past performance evaluation, the terms "offeror" and "supplier" are interchangeable. Supp. COS/MOL at 2, n.1.

³ "SPRS is a procurement risk analysis tool for the areas of Price, Item, and Supplier risk. The Price Risk tool compares industry prices to the average price paid by the government. The Item Risk tool flags items identified as high risk (based on critical safety/application or risk of counterfeiting). The Supplier Risk tool scores vendors on [Department of Defense (DoD)]-wide contract performance." <https://dodprocurementtoolbox.com/site-pages/supplier-performance-risk-system-sprs> (last visited June 18, 2026).

qualifying country, or foreign end products from a non-qualifying country. RFP at 53; DFARS provision 252.225-7000(c).

The agency received proposals from five firms, including the protester, the awardee, and A-Gas US, Inc. AR, Tab 8, First Price Negotiation Memorandum (PNM) at 3. The agency created a competitive range of those three offerors. *Id.* at 7. The agency concluded that all three proposals were acceptable under the technical capability factor. *Id.* DLA also found that all three proposals were acceptable under the past performance factor, stating:

The Supplier Performance Risk System (SPRS) is utilized to determine the overall assessment of the supplier performance and supplier risk. As of 9/22/2025, A-GAS was scored 319.88 (Color Green, 14.8% above the average score) in SPRS, Hudson was rated 341.20 (Color Green, 22.3% above the average score), while RGAS was rated 226.0 (Color Green, 18.9% below the average score). The average SPRS score is 278.76. None of the vendors are suspected of providing counterfeit products and none are listed on SPRS Exclusion List. The vendors are currently active on www.sam.gov. In conclusion, under past performance criteria, all vendors are determined acceptable.

Id.

DLA awarded A-Gas a contract for six NSNs; Hudson was awarded a contract for the remaining five NSNs. *Id.* at 10. Hudson submitted a size protest concerning A-Gas to the Small Business Administration (SBA); that protest was dismissed as premature pending the outcome of the reevaluation the agency was to undertake in response to an agency-level protest filed by RGAS. AR, Tab 12, RGAS Agency Level Protest at 1 (asserting that the agency improperly applied the DFARS 225.502 50 percent price preference to A-Gas because A-Gas was not offering a domestic end product); Tab 13, Agency Resp. to RGAS Protest (stating that the agency would suspend the awards, reevaluate offers, and make new award decisions); Tab 11, SBA Resp. to Size Challenge at 1.

The agency subsequently awarded contracts for three NSNs to A-Gas, three NSNs to Hudson, and five NSNs to RGAS. AR, Tab 14, 2nd PNM at 11-12. Hudson filed an agency-level protest of the award of the five NSNs to RGAS, arguing that the agency should have investigated RGAS's certification that it would provide domestic end products; the agency denied that protest because, "Hudson's disagreement notwithstanding, the contracting officer had no reason to challenge RGAS' pre-award certification of domestic end product." AR, Tab 22, Agency Resp. to Hudson Agency-Level Protest at 1. Because the SBA ultimately determined that A-Gas was other-than-small and thus ineligible for award, AR, Tab 15, SBA Resp. to Second Size Status Challenge at 1, DLA resolicited those three NSNs. AR, Tab 16, Final PNM. The final contract awarded to RGAS included the three recompeted NSNs. *Id.* at 9. In the final

contract, Hudson received 3 NSNs and RGAS received 8 NSNs--the five it had received initially and the three that were recompleted. *See id.*

After a requested and provided debriefing, COS/MOL at 5, Hudson filed this protest challenging the award of the three recompleted NSNs to RGAS.

DISCUSSION

Hudson contends that the agency unreasonably relied on RGAS's certification that it would provide domestic end products and that the agency unreasonably evaluated the awardee's past performance as acceptable. As discussed below, the record supports neither allegation, and we deny them.⁴

Reliance on Certifications

Hudson argues that "RGAS has made multiple assertions that it is not providing domestically sourced products." Protest at 13. The protester further argues that the agency unreasonably relied upon RGAS's certifications that it would provide domestically produced items when "RGAS's misrepresentations are plainly material." *Id.* at 14. Hudson contends that an agency may not rely solely upon representations as part of its evaluation when the agency has reason to doubt the representations' veracity. Comments and 2nd Supp. Protest at 20-21, *citing Leisure Lift, Inc.*, B-291878.3, B-292448.2, Sept. 25, 2003, at 3; *Sea Box, Inc.*, B-420130, B-420130.2, Nov. 18, 2021, at 2. DLA asserts that the contracting officer "acted reasonably in investigating and relying upon RGAS's domestic end product certification." COS/MOL at 7.

Generally, where a contracting officer has no information prior to award that would lead to the conclusion that the product to be furnished is not a domestic end product, the contracting officer may properly rely upon an offeror's self-certification without further investigation. *Sea Box, Inc.*, *supra* at 4. However, if, prior to award, an agency has reason to believe that a firm will not provide domestic products, the agency should go beyond a firm's representation of compliance with the BAA. *Id.* Unsupported allegations that a competitor's product is not in compliance with its BAA certification do not impose an obligation on the contracting officer to conduct a detailed investigation behind that certification. *Id.* Our decisions have consistently stated that an agency is not required to look behind a vendor's certification prior to award, absent a belief that a vendor's BAA certification is invalid. *Id.* An agency's decision not to question or otherwise investigate a certification is reasonable where nothing on the face of the proposal reasonably indicates the possibility of non-compliance. *W&K Container, Inc.*, B-422234.2, Mar. 12, 2024, at 7-8 (denying protest where nothing on the face of the

⁴ Hudson asserts variations on these two allegations. We have considered the entirety of the protester's protest grounds and, while we do not discuss every nuance, we find that no portion of the allegations provide a basis upon which to sustain the protest.

awardee's protest reasonably indicated a possibility of non-compliance with Trade Agreements Act).

Hudson offers the following evidence in support of its assertion that it was unreasonable for DLA to rely on the awardee's certification that the awardee would provide domestic end products. The protester argues that RGAS's GAO protest of the award of a contract under solicitation No. SPE4A2-25-Q-0001 put the agency on notice that, in that procurement, the awardee offered cylinders that were foreign-made. Protest at 16, *citing* Protest exh. M, RGAS Protest at 1-2. Hudson also asserts that RGAS's claims that it can provide domestic cylinders in this procurement are directly contradicted by statements from RGAS's supplier confirming that RGAS purchased cylinders from a company based in Thailand. Protest at 17, *citing* Protest, exh. N, Hudson Agency Level Protest at 13-14.

RGAS and the agency both argue that the protester's arguments are misplaced because they concern where the cylinders are produced rather than the gases, which are the actual end-product for purposes of DFARS provision 252.225-7000. More specifically, RGAS contends that "it was apparent from the face of the solicitation that the *gas*--not the receptible used to store the gas--was the 'end product' for purposes of this acquisition." Intervenor's Comments at 3, *citing* RFP at 3. The agency, as well, asserts that the end products were the gases being procured and not the cylinders. COS/MOL at 4 n.3.

Hudson does not dispute the assertion of the intervenor and the agency that the containers themselves are not end products.⁵ Supp. Protest at 3. Thus, because the end product at issue in this procurement is HFC gases--not the cylinders--the protester's allegation that the agency was on notice that the awardee would supply foreign-made cylinders for the HFC gases and unreasonably relied on a certification that the cylinders would comply with the BAA fails to assert or establish a claim of improper agency action. Accordingly, this allegation is dismissed for failing to state a valid basis of protest. 4 C.F.R. § 21.1(c)(4) and (f); *Warfighter Focused Logistics, Inc.*, B-423546; B-423546.2, Aug. 5, 2025, at 4 (noting that for a protest allegation to be legally sufficient under our Bid Protest Regulations, a protester must provide, at a minimum, credible allegations that are supported by evidence and are sufficient, if uncontradicted, to establish the likelihood of the protester's claim of improper agency action).

The protester presents only one argument challenging the reasonableness of the agency's reliance on the certifications with respect to gases instead of cylinders;

⁵ A plain reading of the solicitation, which states that "DLA intends to award an Indefinite Delivery Indefinite Quantity contract supporting [] 11 HFC gases[.]" supports that assertion. RFP at 3. Moreover, the first award in July 2025 was for gases only. See AR, Tab 8, First PNM at 10. The protester was thus on notice as early as July 2025 that the agency was, in accordance with the solicitation, awarding contracts for gases and not for cylinders.

Hudson asserts that one of the three gases could not be sourced domestically at the price offered by the awardee. Supp. Protest at 8, *citing* Supp. Protest, exh. S, Decl. of Hudson Senior Vice President (SVP) of Operations. Hudson's proof of this assertion is as follows: the commercial name for one of the gases is R507a, which is a blend of 50 percent R-125 and 50 percent R-143a; and, based upon the SVP's "direct knowledge," the protester asserts that R143a is "primarily produced" in China. Protest exh. S, Decl. of Hudson SVP at 1.

Based on our review, we find no merit to the protester's claim that the agency unreasonably relied on the awardee's certification that it would provide domestic end products. As noted above, the RFP incorporated DFARS provision 252.225-7000, which requires offerors to certify whether their proposed products are domestic end products from the United States, foreign end products from a qualifying country, or foreign end products from a non-qualifying country. RFP at 53. RGAS's proposal, on its face, certified under the applicable DFARS 252.225-7000 certificate that the end product for the three NSNs at issue here⁶ were domestic end products. AR, Tab 9, RGAS Proposal at 60. In addition, as the agency explains in response to the protest, RGAS's proposal "also provided specific granularity with respect to the sourcing of gas for each [NSN], providing a narrative of its relationship with [DELETED] refrigerant producers[.]" COS/MOL at 6, *citing* AR, Tab 9, RGAS Proposal at 150-153. Furthermore, the agency explains that, prior to the reevaluation of the three NSNs, the contracting officer requested that RGAS confirm the place of manufacture of the three NSNs, and RGAS again provided assurance that it would provide domestic products. COS/MOL at 7.

Although the protester submitted a declaration as proof that a component of one of the gases is primarily produced in China, that declaration does not demonstrate that the gases could not be sourced domestically at the price offered by the awardee, as the protester asserts. Protest exh. S, Decl. of Hudson SVP at 1. Nor does Hudson claim that the one component of the gas is available only from China. *See id.* (noting that the gas is primarily produced in China). As referenced above, unsupported allegations that a competitor's product is not in compliance with its BAA certification do not impose an obligation on the contracting officer to conduct a detailed investigation behind that certification. *W&K Container, Inc., supra, citing Sea Box, Inc., supra.* Here, the protester has failed to provide evidence that the contracting officer had information prior to award that would lead to the conclusion that RGAS's products were not domestic end products. As such, there was nothing improper regarding the agency's reliance on RGAS's certification in its proposal that the three NSNs were domestic end products. Accordingly, this allegation is denied.

⁶ These included: NSN 6830-01-732 (R407), NSN 6830-01-732-2750 (R407C), and NSN 6830-01-732-2787 (R507A).

Past Performance

Hudson challenges the agency's evaluation of RGAS's past performance, arguing that the agency conducted no substantive review of the information it pulled from SPRS but instead relied on RGAS's total supplier risk score alone to judge its past performance. Comments and 2nd Supp. Protest at 12, *citing* AR, Tab 16, Final PNM at 7. As a result, Hudson argues, the agency "conducted no evaluation of the relevance, recency, or context of RGAS's prior work." Comments and 2nd Supp. Protest at 12. Hudson contends that the agency "did not even evaluate the various component scores that underpinned the final Supplier Risk Score, even though those scores would have shed light on potential quality risks, delivery risks, and other possibly relevant performance information."⁷ *Id.* The agency responds that its evaluation was reasonable and in accordance with the terms of the RFP. Supp. AR at 1. For the reasons discussed below, we find no basis upon which to sustain the protest.

In reviewing a protest challenging an agency's evaluation, our Office will not reevaluate proposals or substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. *See SDS Int'l, Inc.*, B-291183.4, B-291183.5, Apr. 28, 2003, at 5-6. Rather, we will review the record to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. *MVM, Inc.*, B-407779, B-407779.2, Feb. 21, 2013, at 6. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that an evaluation was unreasonable. *Id.* at 5.

Based on our review, we find nothing unreasonable regarding the agency's evaluation of RGAS's past performance as acceptable. As previously mentioned, the solicitation put offerors on notice that DLA would use SPRS to evaluate past performance. RFP at 3. In conducting this evaluation, the solicitation provided that the agency would

⁷ The protester raises other collateral past performance arguments that are not discussed in this decision. For example, the protester also argues: "Although RGAS provided past performance information as part of its proposal, the Agency did not consider this information as part of its evaluation. Rather, the Agency relied **solely** upon information drawn from SPRS." Comments and 2nd Supp. Protest at 11-12, *citing* AR, Tab 9, RGAS Tech. Proposal at 139-144. Other than these two sentences, however, the protester does not describe the information RGAS provided in its proposal that it contends the agency should have considered, make any assertions as to what conclusions the agency should have drawn from the information, or argue why the agency's consideration of the information would have rendered RGAS's past performance unacceptable. *See* Comments and 2nd Supp. Protest at 11-12. This sparse allegation, without more, fails to set forth a clear statement articulating a factual and legal basis in support of the protester's argument. As such, we dismiss this argument for failure to state a valid basis of protest. 4 C.F.R. § 21.1(c)(4) and (f); *Warfighter Focused Logistics, Inc.*, *supra*.

evaluate recent and relevant past performance to assess the government's confidence in the offeror's ability to perform as proposed, as well as consider the number and severity of problems, the effectiveness of any corrective actions taken, and the offeror's overall performance record. *Id.* The RFP provided that past performance would be evaluated as acceptable or unacceptable and defined an acceptable proposal as one that provides the government "a reasonable expectation that the offeror will successfully perform the required effort." AR, Tab 3(3), RFP sects. L & M at 7.

As also noted above, the SPRS is used to "determine the overall assessment of the supplier performance and supplier risk" and in so doing the SPRS score considers price risk (how an offeror's prices compare to the average price paid by the government), item risk (which flags items identified as high risk based on critical safety/application or risk of counterfeiting), and supplier risk (which scores vendors on Department of Defense (DoD)-wide contract performance). AR, Tab 16, Final PNM at 7. Moreover, as the intervenor describes at length, the supplier risk score is comprised of "10 factors of vendor performance" that are weighted "based on age and relative importance" and combined to produce a numerical and color score "for every company which has either a DoD contract or factor data within the last three years." Intervenor's Comments at 4, *quoting* Supp. AR, exh. 1, SPRS Evaluation Criteria Manual at 8 (intervenor's emphasis omitted). In this regard, SPRS receives contract award and delivery data from the Federal Procurement Data System and DLA, and program performance data from the Defense Contract Management Agency and the Contractor Performance Assessment Reporting System, among other sources.⁸ Intervenor's Supp. Comments at 4, *citing* Supp. AR, exh. 1, SPRS Evaluation Criteria Manual at 8-9.

In evaluating past performance, DLA reviewed RGAS's and Hudson's SPRS supplier risk scores, which were 309 and 345, respectively. AR, Tab 16, Final PNM at 7. DLA observed that both scores were rated "Green" and above the average score of 278. *Id.* The offerors' updated SPRS reports were attached to DLA's final negotiation memorandum. See Supp. AR, Tab 18, Updated SPRS Reports. As part of its past performance evaluation, DLA also confirmed that neither offeror was suspected of

⁸ In addition, SPRS organizes a supplier's information based on a "supply code"--that is, the Federal Supply Classification/Product Service Code (PSC) and North American Industry Classification System (NAICS) code associated with each record. Supp. AR, exh. 1, SPRS Evaluation Criteria Manual at 11, 15. Each supply code for which there is quality performance data is ranked by magnitude and assigned a color. *Id.* at 13. In making this calculation, SPRS classifies suppliers based on quality performance comparisons for all competitors within the applicable supply code. *Id.* For purposes of this procurement, DLA utilized records falling within three supply codes: PSC 6830 (Gases: Compressed and Liquefied); NAICS 211112 (Natural Gas Liquid Extraction); and NAICS 325120 (Industrial Gas Manufacturing). See Supp. AR, Ex. 9, Past Performance Evaluation at 7-8; see *also* PSC Manual, Apr. 2025 (available at: <https://www.acquisition.gov/psc-manual>); 2012 NAICS Guide (available at: <https://www.census.gov/naics/?58967?yearbck=2012>).

providing counterfeit products, and neither was listed as suspended or debarred. See *id.* Separately, DLA confirmed “multiple times throughout the procurement” that the offerors were actively registered on SAM.gov. AR, Ex. 16, Final PNM at 7. Considering this information, both RGAS and Hudson were deemed acceptable for past performance. *Id.*

Although the protester asserts that the agency should have conducted a more detailed assessment of past performance using SPRS, its disagreement with the agency’s reliance on the overall score does demonstrate that DLA’s evaluation was unreasonable. *Markon LLC, B-423767 et al.*, Dec. 12, 2025, at 13 (noting that a protester’s disagreement with an agency’s interpretation of a solicitation’s requirement does not render the agency’s interpretation unreasonable). Here, the solicitation does not specify how DLA would use SPRS, just that it would be used to evaluate past performance. RFP at 3. The protester has not demonstrated that DLA’s past performance evaluation of RGAS’s past performance as acceptable was inconsistent with the terms of the RFP or otherwise unreasonable. Accordingly, this protest ground is denied.

The protest is denied.

Edda Emmanuelli Perez
General Counsel