



Decision

Matter of: SkyMate, Inc.

File: B-424591.2

Date: September 17, 2026

Gerald Tugade for the protester.
Dozier Gardner, Esq., and Rhina Cardenal, Esq., Department of Commerce, for the agency.

Paula A. Williams, Esq., and Evan D. Wesser, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's reevaluation following corrective action is dismissed as factually and legally insufficient where protester merely speculates that the reevaluation did not differ from the initial evaluation and this speculation does not satisfy the protester's burden to present credible allegations supported by sufficient evidence to establish its protest.

DECISION

SkyMate, Inc., a small business located in Reston, Virginia, protests the establishment of a blanket purchase agreement (BPA) with Directional Command, LLC, a small business located in Tampa, Florida, by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), under request for quotations (RFQ) No. 1305M326Q0093. The RFQ, which was issued as a small business set aside, sought quotations to purchase vessel monitoring system units for the Office of Law Enforcement. Req. for Dismissal, exh. 1, RFQ at 32.¹ The protester argues that NOAA's reevaluation of quotations and the resulting selection decision following voluntary corrective action were flawed.

We dismiss the protest because, as filed with our Office, it does not establish a legally and factually sufficient basis for challenging the agency's action.

¹ References to the agency's request for dismissal exhibits use the documents Adobe PDF pagination.

At the outset, we note that our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient. 4 C.F.R. §§ 21.1(c)(4) and (f). Where a protester relies on bare assertions, without further supporting details or evidence, our Office will find that the protest ground amounts to no more than speculation and does not meet the standard contemplated by our regulations for a legally sufficient protest. *Chags Health Info. Tech., LLC*, B-420940.3 *et al.*, Dec. 14, 2022, at 5-6 (dismissing arguments that relied solely on the protester's speculation); *Davis Def. Grp., Inc.*, B-417470, July 11, 2019, at 3 n.2 (dismissing allegations that relied on information and belief). In other words, protesters must provide more than a bare allegation; the allegation must be supported by some explanation and evidence that establishes the likelihood the protester will prevail in its claim of improper agency action. See e.g., *Warfighter Focused Logistics, Inc.*, B-423546, B-423546.2, Aug. 5, 2025, at 4; *Raytheon Blackbird Techs., Inc.*, B-417522, B-417522.2, July 11, 2019, at 3-4.

Here, the relevant facts are not in dispute. On April 21, 2026, the agency issued the solicitation to establish a fixed-price BPA and to simultaneously issue a call order when it establishes the BPA. Req. for Dismissal, exh. 1, RFQ at 33. The solicitation provided that the BPA would be established with the vendor whose quotation was the most advantageous to the government, considering two factors: technical acceptability; and price. *Id.* at 35. Additionally, the solicitation provided that the agency reserved the right to establish the BPA with other than the lowest-priced vendor. *Id.*

On May 14, the agency informed SkyMate that its quotation had not been selected for establishment of the BPA and the protester requested additional information concerning the agency's evaluation. On June 15, the agency provided the protester with a brief explanation regarding its evaluation. *Id.*, exh. 2, Agency Email at 40-41. SkyMate then filed an initial protest with our Office, alleging that the agency unreasonably evaluated its quotation by utilizing undisclosed evaluation criteria. Subsequently, the agency elected to take voluntary corrective action by reevaluating quotations and issuing a new award decision and we dismissed the protest as academic. *SkyMate, Inc.*, B-424591, July 14, 2026 (unpublished decision).

Following the corrective action reevaluation, the agency reaffirmed establishment of the BPA with Directional Command and also issued a funded BPA call order. On August 6, the protester received notice that its lower-priced quotation had not been selected because it did not provide the best value to the government. Req. for Dismissal, exh. 6, Unsuccessful Vendor Notice at 55. Thereafter, without requesting a brief explanation from the agency, SkyMate filed this protest challenging the agency's reevaluation of quotations, the reaffirmed selection of Directional Command, and the issuance of the funded BPA call order. Specifically, the protester asserts that NOAA may have materially relied on unstated considerations, applied considerations unequally, or otherwise used past performance information in a manner inconsistent with the stated evaluation scheme, to its detriment. See Protest at 3-4. Based on the August 6 notice

of the results of the corrective action, SkyMate also asserts that the agency may have conducted an unreasonable best value determination. *Id.* at 4.

Prior to the agency report due date, NOAA requested that our Office dismiss these protest grounds as speculative, factually inaccurate, and failing to set forth a legally sufficient basis of protest. Req. for Dismissal at 4-6. SkyMate responded to the agency's dismissal request by withdrawing "the standalone unequal-treatment and standalone past-performance [protest] grounds as presently framed." Resp. to Req. for Dismissal at 5.

However, SkyMate did not meaningfully respond to the agency's arguments concerning the sufficiency of the remaining protest grounds and we find that the protester has provided no basis, beyond speculation, for the remaining allegations in its protest. For example, the protester contends that the agency's use of unstated evaluation criteria in its reevaluation is supported by NOAA's dismissal request because the agency failed to "state whether the June 15 [*i.e.*, the agency's brief explanation following the initial selection] considerations were removed from the reevaluation, were again used as material discriminators, or were linked to particular disclosed criteria in the new award decision memorandum [*i.e.*, the August 6 notice for reaffirmed selection]." Resp. to Req. for Dismissal at 2. According to the protester, the agency should have provided "the new award decision memorandum or other contemporaneous document that would resolve the issue." *Id.* at 3. Having failed to do so, SkyMate seeks to have our Office draw a favorable inference as to the sufficiency of its allegation that the agency may have applied unstated evaluation criteria in its reevaluation. We decline to do so.

Here, the protester's allegation fails to state a valid basis of protest because it is based on a factual and legally insufficient speculation. In this regard, the protester merely speculates, without any supporting basis, that the agency may have reevaluated proposals in a manner consistent with the prior evaluation. SkyMate's bare allegations, made without any supporting details or documentation, amounts to no more than speculation which does not satisfy the requirements of our regulations for a legally sufficient protest. *Chags Health Info. Tech., LLC, supra*. Moreover, it is the protester--not the agency--that has the burden of presenting sufficient evidence to establish its protest ground.² *GovernmentCIO, LLC, B-418363 et al.*, Mar. 10, 2020, at 11. Similarly, we dismiss as legally insufficient SkyMate's derivative protest allegation that the agency may have "continued to use an unstated or insufficiently connected discriminator" in its best value determination in the absence of any support or explanation for its assertions. Resp. to Req. for Dismissal at 5.

² Although the protester had the opportunity to request a brief explanation of the agency's reevaluation of quotations (as it did in its initial protest) prior to filing this second protest with our Office, it does not appear to have chosen to do so following completion of the agency's corrective action.

For the reasons discussed, the protester has failed to provide factual grounds that are legally sufficient to support its protest. Accordingly, this protest is dismissed without further action. 4 C.F.R. § 21.5(f); see *INNOVIM, LLC*, B-419912, B-419912.2, Sept. 21, 2021, at 5 (explaining an allegation that facially does not demonstrate improper agency action is factually and legally insufficient); see also *Chugach Logistics-Facility Servs. JV, LLC*, B-421351, Mar. 21, 2023, at 4 (unsupported assertions that are mere speculation on the part of the protester do not provide an adequate basis for protest).

The protest is dismissed.

Edda Emmanuelli Perez
General Counsel