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Decision

Matter of: Hendall Inc.

File: B-423714.5

Date: October 1, 2026

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Samantha S. Lee, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest filed more than 10 days after the bases of protest were or should have been known is untimely.

DECISION

Hendall Inc., of Rockville, Maryland protests the issuance of a task order to Serco, Inc. of Herndon, Virginia, under request for quotation (RFQ) No. RFQ-1750254, issued by the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for management of a comprehensive error rate testing (CERT) program.

We dismiss the protest.

BACKGROUND

Federal agencies, including the Department of Health and Human Services (HHS), are required by law to identify programs that may be susceptible to significant improper payments, estimate the amount of improper payments in those programs, and report the estimates and the actions the agency is taking to reduce improper payments. Agency

Report (AR), Tab 1, RFQ, attach. J.1, Statement of Work (SOW) at 7.¹ Among the programs identified by HHS is the “Medicare Fee-for-Service (FFS) program.” See *id.* CMS developed the CERT program to calculate the improper payment rate under Medicare FFS by reviewing “a stratified random sample of” claims to determine if they were paid properly. *Id.*

On February 20, 2025, CMS issued the initial solicitation under the General Services Administration’s (GSA) federal supply schedule (FSS) contracts for administrative management and general management consulting, using Federal Acquisition Regulation (FAR) subpart 8.4 procedures.² AR, Tab 1, Initial RFQ at 1-3.³ The solicitation seeks a contractor to manage and operate the CERT program, and the RFQ contemplated the issuance of hybrid fixed-price, time-and-material, and cost-reimbursement type task order with a total period of performance up to 7 years and 3 months. AR, Tab 5, amend. 4, RFQ at 1, 10.

The RFQ provided for a two-phase evaluation. *Id.* at 135. During phase 1, vendors were to submit only the portions of their technical quotations that addressed a single evaluation factor: technical understanding and approach. *Id.* at 127-28. The agency would evaluate phase 1 quotations and assign adjectival ratings of excellent, acceptable, or unacceptable. *Id.* at 135-36. Following the evaluation of phase 1 quotations, the agency would advise vendors if they were invited to participate in phase 2 or if they were “unlikely to be viable competitors.” *Id.* at 136. Notwithstanding the agency’s advice, however, all vendors could choose to participate in phase 2. *Id.*

During phase 2, vendors would submit the rest of their quotations, and the agency would evaluate quotations using the following evaluation factors: technical approach;

¹ Citations to the record refer to the documents’ internal Adobe PDF pagination.

² At the time CMS issued the RFQ, the procedures for issuing a task order under a vendor’s FSS contract were set forth in FAR subpart 8.4. Subsequently, GSA issued a mass modification to its FSS contracts to adopt the Revolutionary FAR Overhaul (RFO) versions of multiple FAR clauses and provisions. Multiple Award Schedule Refresh 30 Clause and Provision Changes at 1 (available at https://vsc.gsa.gov/drupal/files/Significant_Changes_Attachment%20for%20MAS%20Refresh%2030.pdf) (last visited Sept. 24, 2026). HHS issued a class deviation adopting the RFO changes to FAR part 8, effective November 3, 2025. HHS Class Deviation 2025-09 Amend. 1 (available at https://www.acquisition.gov/sites/default/files/page_file_uploads/HHS_RFO_Deviation_Part-4-8-12-38-40-51and52.pdf) (last visited Sept. 24, 2026).

The parties have not alleged or established that any distinctions between the prior and the RFO versions of FAR part 8 affect the analysis of the agency’s actions in this procurement.

³ The agency amended the RFQ four times. Except where otherwise specified, citations to the RFQ are to the fourth amended version at tab 5 of the agency report.

key personnel; past performance; and small business utilization.⁴ *Id.* at 137-40. Also, during phase 2, the agency would evaluate price, “consider[ing] the level of effort and mix of labor proposed for the order in determining that the total price is reasonable to perform the work required.” *Id.* at 140. The solicitation established that award would be made on a best-value tradeoff basis, with all non-price factors combined being significantly more important than price. *Id.* at 135.

The agency received eight quotations for phase 1 by the April 4, submission deadline. Contracting Officer’s Statement (COS) at 3. The agency invited four vendors to proceed to phase 2. *Id.* Although the agency advised Hendall that it was unlikely to be a viable competitor, the firm elected to proceed to phase 2. *Id.*

On July 2, based on the evaluation of phase 2 quotations, CMS established a competitive range of two vendors, including Serco. *Id.* The three vendors excluded from the competitive range, including Hendall, filed protests with our Office. Hendall’s protest at the time was based on a brief explanation of the basis for award that included “information regarding the evaluation of its proposal and assessment by CMS.” Protest, B-423714.3, Aug. 4, 2025, at 2. Relevant to this protest, among Hendall’s allegations were that “[c]oncerns regarding Hendall’s proposed staffing being too low are unreasonable because staffing was not a technical evaluation consideration, and any assessment of low staffing was tantamount to a price realism evaluation.” *Id.* at 33. In response to those protests, the agency notified our Office that it intended to take corrective action by holding discussions with all vendors and permitting them to submit revised quotations. *RELI Grp., Inc.*, B-423714, July 24, 2025 (unpublished decision); *Livanta LLC*, B-423714.2, July 24, 2025 (unpublished decision); *Hendall Inc.*, B-423714.3, Aug. 19, 2025 (unpublished decision).

On August 26, CMS initiated written discussions with Hendall. AR, Tab 8, Discussions Letter at 1. Among the items CMS raised in discussions was the assessment of labor hours Hendall had proposed for 22 of the tasks under the SOW. *Id.* at 14-17. Hendall asked the agency for clarification and expressed a concern that CMS’s assessment of labor hours represented an improper price realism evaluation. AR, Tab 9, Resp. to Questions at 3. The agency advised that it was not conducting a price realism analysis but that it was “well within the solicitation and FAR parameters to review the hours (level of effort) for this procurement.” *Id.* at 3-4. Hendall ultimately submitted a revised quotation that included responses to each of the discussion notices. See AR, Tab 10, Resp. to Questions.

On November 19, the agency notified vendors that CMS had completed the evaluation of revised quotations and determined that Serco’s quotation represented the best value. AR, Tab 15, Nov. 2025 Notice of Award at 1-2. Based on the notice of award, on December 1, Hendall protested the award to our Office, asserting that the best-value

⁴ The same adjectival ratings (excellent, acceptable, or unacceptable) would be assigned for the phase 2 evaluation factors. RFQ at 135.

determination was improper. Protest, B-423714.4, Dec. 1, 2025, at 5-8. Subsequently, the agency notified us that the procurement at issue was the subject of a protest filed by another vendor, Livanta, before the United States Court of Federal Claims (COFC). *Hendall Inc.*, B-423714.4, Dec. 19, 2025 (unpublished decision). Consequently, we dismissed Hendall's protest because our Office will not decide a protest where the matter involved is the subject of litigation before a court of competent jurisdiction. *Id.*; 4 C.F.R. § 21.11(b).

On February 18, 2026, CMS announced its intention to take corrective action in response to Livanta's protest before the COFC. Defendant's Notice of Corrective Action and Motion to Stay Briefing Schedule at 1, *Livanta, LLC v. United States*, No. 25-2067C (Fed. Cl. Feb. 18, 2026). Specifically, the agency stated that it intended to reevaluate quotations and issue a new award decision. *Id.* As a result, Livanta filed a motion for voluntary dismissal and COFC dismissed on February 25. Order at 1, *Livanta, LLC v. United States*, No. 25-2067C (Fed. Cl. Feb. 25, 2026).

Following reevaluation, the agency again identified Serco's quotation as the best value and issued the task order to Serco. COS at 8; AR, Tab 12, Source Selection Document (SSD) at 98-100. On May 28, the agency notified Hendall that it had selected Serco for award. AR, Tab 13, May 2026 Notice of Award. Hendall requested a brief explanation of the basis for award, which CMS provided on June 16. AR, Tab 14, Brief Explanation.

On June 26, Hendall filed this protest with our Office.

DISCUSSION

Hendall alleges the agency's evaluation was flawed for two reasons. First, the protester argues that CMS's best-value determination was unreasonable because it failed to consider price in the tradeoff. Protest at 9-11. Second, Hendall contends the agency conducted a price realism evaluation that was not provided for, and thus not permitted, under the solicitation. *Id.* at 6-9. The intervenor requests dismissal, asserting that the protest is untimely. Intervenor Req. for Dismissal and Comments at 3-15. We agree. For the reasons discussed below, we find Hendall's protest to be untimely.

Our regulations contain strict rules for the timely submission of protests. These timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without disrupting or delaying the procurement process. *Desert Springs Trout Farm*, B-420338, B-420338.2, Dec. 9, 2021, at 2. As relevant here, our regulations require that protests not based upon alleged solicitation improprieties be filed not later than 10 days after the basis of protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2). An exception exists, however, for protests challenging a procurement conducted on the basis of competitive proposals where a debriefing, if requested, is required, such as the negotiated procurement under FAR part 15 and, in some circumstances, subpart 16.5. *The JAAW Group, LLC*, B-424133, Feb. 2, 2026, at 5. In such cases, our regulations expressly provide that "any protest basis which is known or should have been known

either before or as a result of the debriefing . . . shall not be filed before the debriefing date offered to the protester, but shall be filed not later than 10 days after the date on which the debriefing is held.” 4 C.F.R. § 21.2(a)(2). Underlying this exception to our timeliness rules is the obligation for the agency to provide a required debriefing, which does not apply here.

In this regard, the solicitation was issued as a FSS procurement pursuant to FAR subpart 8.4.⁵ As such, the requirements to provide a debriefing under the competitive procurement procedures of FAR part 15 do not apply. *The JAAW Group, supra*. Hendall, therefore, was required to file its protest within 10 days of the date that knew or should have known of the basis for protest. *Id.* The dispute between the parties, here, is what date Hendall knew or should have known of its grounds for protest.

Challenge to the Best-Value Tradeoff

One of the two protest grounds Hendall advances in its current protest is that “CMS’s best-value determination deviated from the stated evaluation criteria by failing to properly consider price in its trade-off,” and that the agency failed to document “what precisely warranted paying a nearly \$20 million price premium over Hendall’s quote.”⁶ Protest at 9.

According to the intervenor, the latest date that Hendall knew or should have known of the basis to challenge the reasonableness of the best-value decision is May 28, 2026, the date on which the agency notified Hendall of the latest award to Serco, and disclosed Serco’s proposed price, following the reevaluation. Intervenor Req. for Dismissal and Comments at 12. As the intervenor explains, the history of this procurement has been long and contentious, and “the award notice Hendall received on May 28 clearly disclosed that CMS had reached the same conclusion that was the subject of Hendall’s [most recent] challenge: that Serco’s proposal represented the best value to the Agency despite carrying” a multi-million-dollar price premium. Intervenor Req. for Dismissal and Comments at 12. Indeed, the intervenor contends, when Hendall protested the agency’s initial award decision in December 2025--before the agency took corrective action to reevaluate the existing quotations--the protester raised

⁵ For procurements under the FSS, section 8.405-3(b) of the FAR only requires agencies to provide a “brief explanation of the basis” for award, when requested. FAR 8.405-3(b).

⁶ As the intervenor notes, the difference between Serco’s and Hendall’s proposed prices was approximately \$37 million. Intervenor Req. for Dismissal and Comments at 12 n.5 (citing AR, Tab 7, SSD at 7). The reference to \$20 million appears to be an error that compares Serco’s proposed price to Hendall’s initial proposed price; Hendall decreased its proposed price during discussions. *Compare* AR, Tab 7, Hendall Phase 2 Quotation, Hendall Business Quotation Spreadsheet, Total Costs Tab *with* AR, Tab 10, Hendall Revised Quotation, Hendall Revised Business Quotation Spreadsheet, Total Costs Tab.

the same objection based on the November 2025 notice of award. *Id.* at 13-14 (citing Protest, B-423714.4, Dec. 1, 2025, at 6).

The protester argues that “the only substantive information provided in the May 28 notice was Serco’s price,” and that it was not “until Hendall received the Basis for Award memorandum on June 16 that it” had the “knowledge of the agency’s assessment of both price and non-price factors” necessary for “a knowledgeable or supportable protest ground.” Protester’s Resp. to Req. for Dismissal at 15.

We have consistently explained that a disappointed offeror may not delay filing a protest until the firm is certain that it is in a position to detail all of the possible separate grounds of protest. *Centerra Integrated Facilities Servs., LLC*, B-418628, Apr. 23, 2020, at 8-9; *CDO Techs., Inc.*, B-416989, Nov. 1, 2018, at 5. That is, a protester need not await perfect knowledge before filing a protest. *Peraton Inc.*, B-416916.11, Feb. 8, 2021, at 6. Moreover, our timeliness rules do not hinge on whether a protester definitively knew of the basis for its protest but rather, as discussed above, require that a protest be filed no later than 10 calendar days after the protester knew, or *should have known*, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2); *Magnum Multimedia*, B-420227, Nov. 2, 2021, at 5.

The protester’s assertion--that it was not until it received its brief explanation on June 16 that Hendall learned of the basis for its protest--ignores the history of this procurement. Specifically, in November 2025, Hendall received a notice of award from the agency that included the name and price of the awardee, Serco, and the following “brief explanation for the basis of award”:

In accordance with FAR 8.405, quotes were evaluated, and best value was determined in a manner consistent with the terms and conditions of the RFQ. Non-price factors were assessed adjectival ratings. Trade-offs were considered to determine which quote was the best value, where that consideration included the relative importance of price to the combination of non-price factors, as well as the relative importance of the non-price factors to one another. After careful review, the Contracting Officer determined that the Serco, Inc. quote provided technical excellence overall in connection with non-price factors. As a result, the Contracting Officer determined that the Serco, Inc. quote was the best value to the government.

AR, Tab 15, Nov. 2025 Notice of Award at 1-2. Based on that information, Hendall filed a protest (B-423714.4) of the initial award to Serco, challenging the agency’s best-value determination. Protest, B-423714.4, Dec. 1, 2025, at 5-8. Specifically, Hendall alleged, “CMS’ best-value determination deviated from the stated evaluation criteria by failing to consider price in its best-value tradeoff,” and that “CMS has fallen well short of its burden of documenting what, precisely, warranted a nearly \$20 million price premium over Hendall’s proposal.” *Id.* at 5. We dismissed Hendall’s protest when Livanta filed a protest at the COFC. *Hendall Inc.*, B-423714.4, Dec. 19, 2025 (unpublished decision).

Hendall did not file a protest at the COFC. As discussed above, the COFC protest was resolved by the agency taking corrective action by conducting a reevaluation of quotations and making a new award decision.

The notice of award following that corrective action confirmed that the agency had reevaluated quotations and made award to Serco at the same price, which Hendall knew to be significantly higher than Hendall's proposed price. *Compare* AR, Tab 13, May 2026 Notice of Award at 1 *with* AR, Tab 15, Nov. 2025 Notice of Award at 1. Under the circumstances here, Hendall knew or should have known the basis for its protest challenging the agency's post-corrective action best-value tradeoff by no later than May 28, when the agency notified the protester that it had completed its corrective action of reevaluating existing quotations and reawarded the contract to Serco.⁷ *Triple Point Sec., Inc.*, B-423326.2, Feb. 11, 2021, at 3 (finding protest filed within 10 days of brief explanation untimely where "challenge is not based on any information learned in the brief explanation of award because it does not cite or identify any information contained in the explanation as the underlying reasons supporting its general challenge").

Thus, in order to be timely, Hendall was required to file its protest within 10 days of May 28, *i.e.*, by June 8. 4 C.F.R. § 21.2(a)(2). Because Hendall did not file its protest until June 26, the protest allegation is untimely.

Alleged Impermissible Price Realism Evaluation

Hendall's second allegation is that CMS "conducted an improper price realism evaluation not anticipated by the RFQ and therefore not permissible." Protest at 6. According to the protester, although "framed as a concern about the technical feasibility of Hendall's proposed labor," the agency's evaluation of proposed labor hours and ultimate conclusions that the proposed hours were "technically unsupported and inconsistent with the scope of work" evidence a price realism evaluation. *Id.* at 7.

⁷ We note that to find otherwise, here, would essentially treat the agency's brief explanation as if it were a required debriefing that tolled the deadline for a timely protest. While Hendall alleges that the factual basis for the protest was not revealed until the brief explanation, the date of the notice of award can start the deadline to file a protest where, under the circumstances, the protester knew or should have known the basis of protest. *Wright Bros. Aero., Inc.*, B-423326.2, July 7, 2025, at 4. A brief explanation is not different from any other source of information in that regard. That is, if the protester filed 10 days after receipt of a brief explanation, the protester must establish that the brief explanation was the first time that it knew or should have known the basis of protest or be deemed untimely. *FD Inc.*, B-422920, B-422920.2, Oct. 4, 2024, at 6 (dismissing as untimely protest filed 10 days after receipt of non-required debriefing when the protester knew or should have known the basis from an earlier notice of award).

In the intervenor's view, this protest ground is untimely because "the Agency unambiguously put Hendall on notice during discussions that the agency intended to evaluate offerors on the very same basis that Hendall argues in its protest constitutes an improper evaluation of price realism" and, therefore, Hendall could not wait until after award to raise this challenge. Intervenor's Req. for Dismissal and Comments at 8. The agency agrees, explaining that Hendall specifically raised concerns during discussions that the agency's assessment of labor hours was tantamount to a price realism evaluation. Agency Resp. to Req. for Dismissal at 5. In response to Hendall's discussion questions, the agency reaffirmed that it was "well within the solicitation and FAR parameters to review the hours (level of effort) for this procurement." *Id.* at 2 (quoting AR, Tab 9, Resp. to Questions at 3).

The protester, for its part, contends that the agency's response to its discussion questions "explicitly assured Hendall that the agency *would not* conduct a price realism evaluation." Protester Resp. to Req. for Dismissal at 11. Therefore, Hendall was permitted to presume that CMS would act in good faith and that "it wasn't until Hendall received its brief explanation from CMS that Hendall realized CMS's evaluation of its [price quotation] strayed from the stated evaluation criteria and the agency's response to its discussion question." *Id.* at 13.

Here, it is appropriate to consider the full context of the procurement to determine when Hendall was aware of the operative facts giving rise to its protest argument--that the agency interpreted the solicitation to permit the evaluation of labor hours for sufficiency to meet the technical requirements of the work. As the protester itself acknowledges, based on details provided after the agency eliminated Hendall from the competitive range, "[i]n its August 2025 protest, Hendall challenged the agency's improper imposition of a price realism evaluation based on concerns that its labor hours were 'inadequate.'" Protest at 7 n.4. The agency took corrective action by holding discussions with all vendors, to include Hendall, and permitting vendors to submit revised quotations. On August 26, CMS issued discussion notices to Hendall. AR, Tab 8, Discussions Letter at 1. Among the items included for discussion with Hendall was CMS's assessment of the firm's labor hours proposed for 22 of the tasks under the SOW. *Id.* at 14-17.

For example, for task 1, the agency advised that CMS did "not concur with the hours proposed" and requested that Hendall "provide additional details to justify the low number of hours allocated for completing this task." *Id.* at 14. Hendall asked the agency to clarify the discussion item and expressed the following concern about the price evaluation:

Regarding the Business Proposal Review, much of the feedback (and particularly the comments requesting justification for the "low number of hours") suggests that CMS is conducting a price realism analysis which is not permitted in awarding a fixed price contract. Can CMS clarify under which evaluation factor this information is being reviewed?

AR, Tab 9, Resp. to Questions at 3. Responding to the question, the agency advised:

CMS is not, nor did they perform price realism. CMS followed the FAR and solicitation which both state the following: Pursuant to FAR 8.405-2(d), the Government will consider the level of effort and mix of labor proposed for the order in determining that the total price is reasonable to perform the work required in the SOW. Price discounts beyond the GSA schedule are welcomed and encouraged. Open Market items will be reviewed to determine that the price is fair and reasonable in accordance with FAR 8.402(f).

Based on the above, CMS is well within the solicitation and FAR parameters to review the hours (level of effort) for this procurement.

Id. at 3-4. Hendall ultimately submitted a revised quotation that included responses to each of the discussion notices. See AR, Tab 10, Hendall Revised Quotation, Resp. to Questions. For example, regarding task 1, Hendall explained that its initial quotation was “consistent with [the firm’s] experience conducting kickoff meetings on other new contracts awarded to Hendall,” but that, “in light of CMS’s feedback, we have doubled the effort for this task.” *Id.* at 66.

Based on the record before us, we find wholly unpersuasive Hendall’s contention the basis of this allegation--that “CMS conducted an improper price realism evaluation not anticipated by the RFQ”--only became known from the brief explanation the protester received on June 19. Protest at 6; Protester’s Resp. to Req. for Dismissal at 13. While the brief explanation may have provided details to Hendall about the agency’s final evaluation of the firm’s labor hours, it is clear from the record that the protester was on notice that the agency interpreted the solicitation to allow for an assessment of proposed labor hours for adequacy. In this regard, the protester previously asserted that the agency’s assessment of labor hours was an impermissible price realism evaluation, and the agency’s subsequent discussions with the protester continued to identify labor hours as too low and request adjustment or justification for the proposed approach. Protest, B-423714.3, Aug. 4, 2025, at 33-35; AR, Tab 9, Resp. to Questions at 3. Consequently, where the protester was aware of the basis of its protest--including the agency’s consistent understanding and application of the solicitation’s evaluation criteria across the duration of the procurement--no later than the receipt of its notice of non-selection for award, the protester was required to file its protest no later than 10 days after its receipt of that notice.⁸ 4 C.F.R. § 21.2(a)(2); see also *United Medevac*

⁸ In any event, we note that we have previously rejected similar arguments that an agency conducted an impermissible price realism evaluation where it merely evaluated the technical feasibility of an offeror’s proposed staffing approach. See, e.g., *Octo Consulting Grp., Inc.*, B-416097.3, B-416097.4, Sept. 24, 2018, at 8-6 (rejecting argument that the agency conducted an impermissible price realism evaluation where the record did not show that the agency concluded that the protester would be unable to
(continued...)

Sols., Inc., B-417032; B-417032.2, Jan. 24, 2019, at 5 n.6 (explaining that protest grounds known to the protester as of the notice of award were dismissed as untimely where the protest was not filed within 10 days of that notice where debriefing exception to timeliness rules did not apply).

The protest is dismissed.

Edda Emmanuelli Perez
General Counsel

(...continued)

retain the staff it proposed at the prices it proposed, or would otherwise, due to its pricing, be unable to execute its proposed technical approach, but, instead, concluded that the protester's proposed technical approach was marginal and therefore posed risk, primarily due to its proposed staffing approach), *recon. denied*, B-416097.5, Feb. 28, 2019.