



**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:** Jardon and Howard Technologies, Inc.

**File:** B-415330.3; B-415330.4

**Date:** May 24, 2018

---

Brian G. Walsh, Esq., Samantha S. Lee, Esq., Moshe B. Broder, Esq., and Cara L. Lasley, Esq., Wiley Rein LLP, for the protester.  
Paul J. Seidman, Esq., and David J. Seidman, Esq., Seidman & Associates, P.C., for Consolidated Safety Systems, Inc., the intervenor.  
Florence N. Bridges, Esq., and James Rhodes, Esq., Department of Commerce, 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

Protest challenging the agency's technical evaluation under the management approach factor is denied where the evaluation was reasonable and consistent with the terms of the solicitation.

---

## DECISION

Jardon and Howard Technologies, Inc. (JHT), of Orlando, Florida, protests the establishment of a Federal Supply Schedule (FSS) blanket purchase agreement (BPA) with Consolidated Safety Services, Inc. (CSS), of Fairfax, Virginia, under request for quotations (RFQ) No. NCNS4000-17-00042, issued by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), for scientific and technical mission support services. JHT challenges NOAA's evaluation of the vendors' quotations under the management approach factor and argues that the agency's source selection decision was unreasonable.

We deny the protest.

## BACKGROUND

The agency issued the RFQ on June 20, 2017, using Federal Acquisition Regulation (FAR) subpart 8.4 procedures, to vendors holding General Services Administration (GSA) FSS contracts. RFQ at 1, 5. The RFQ anticipated establishing a BPA consisting of a base year, and four 1-year options, with a ceiling price of \$40,000,000. The RFQ

provided that the BPA would be established on a best-value tradeoff basis, considering the vendors’ “business solutions” and price quotations. The RFQ advised that vendors’ business solutions should address the following three evaluation factors listed in descending order of importance: technical approach, management approach, and past performance. Id. at 26-27. The non-price factors, when combined, were significantly more important than price. Id.

As relevant to this protest, under the management approach factor, the RFQ provided that vendors would be evaluated based on their plan “for staffing, management and oversight and ability to fulfill and execute the requirements of the Statement of Work.” Id. at 27. Vendors were to “indicate their management capacity” to provide the required services by “demonstrating the ability to identify, recruit, retain, and manage a diverse workforce that spans a wide range of technical competencies[,] from highly specialized scientific labor, to routine administrative labor.” Id. at 25.

The agency received eight quotations by the July 5 deadline, including from CSS and JHT. JHT is the incumbent contractor for the requirement. After evaluating quotations, NOAA established a BPA with CSS. Agency Report (AR), Tab 9, Contract Award. On September 22, JHT protested to our Office. In response, the agency advised that it would take corrective action to perform a new evaluation of quotations. Contracting Officer (CO) Statement at 1. Based on the agency’s proposed corrective action, we dismissed JHT’s protest as academic.

The agency thereafter reevaluated quotations. The final ratings for JHT and CSS, along with their proposed prices, are shown in the table below.<sup>1</sup>

	<b>CSS</b>	<b>JHT</b>
<b>Overall Rating</b>	<b>Good</b>	<b>Good</b>
Technical Approach	Outstanding	Outstanding
Management Approach	Acceptable	Acceptable
Past Performance	Outstanding	Outstanding
Price	\$28,998,904	\$41,732,023

AR, Tab 8, Contract Award Memo (CAM), at 7, 23.

Both quotations received the same ratings for all three technical factors, as well as an overall technical rating of good. Specific to the management approach factor, both quotations were rated as acceptable. In addition, under the management approach

---

<sup>1</sup> Quotations were evaluated under the technical approach and management approach factors as outstanding, good, acceptable, marginal, and unacceptable. AR, Tab 6a, Technical Evaluation Report (TER), at 2. Under the past performance factor, quotations were evaluated as outstanding, good, acceptable, marginal, unacceptable, and neutral. Id.

factor, CSS's quotation received a significant strength for CSS's proposed program manager, as well as four strengths in the areas of recruitment, retention, personnel management planning, and phase-in/phase-out. AR, Tab 6a, TER, at 7. JHT also received a significant strength under the management approach factor for its "significantly strong phase in/phase out plan," as well as three strengths in the areas of recruitment, retention, and program manager. Id. at 16-17.

After evaluating the vendors' quotations, the technical evaluation team (TET) ranked CSS's quotation the highest. Id. at 75. Specifically, the TET noted that "[a]lthough both CSS and JHT received an acceptable rating for Factor 2 Management Approach, there was a consensus by the TET that CSS's Factor 2 approach offered more benefit to the government." Id. In the source selection decision, the source selection authority (SSA) noted that the TET decided to "rank JHT second largely because CSS had a stronger management approach."<sup>2</sup> AR, Tab 8, CAM, at 22. In this regard, the agency noted that "CSS had a more detailed employee benefit plan and a more highly qualified program manager." Id. The SSA determined that, because "CSS is the highest technically rated vendor and is also the lowest priced," a "trade-off analysis is not required." Id. at 27. The SSA found that CSS's quotation represented the best value to the government because it had the lowest-evaluated price and because of its "proven capability to provide successful service." Id. Accordingly, the agency established the BPA with that vendor. This protest followed.

## DISCUSSION

JHT challenges NOAA's evaluation of the vendors' quotations under the management approach factor. The protester contends that the agency unreasonably concluded that the awardee's approach under this factor provided more benefit than JHT's approach. The protester maintains that, had the agency properly evaluated JHT's quotation as superior under the management approach factor, it would have been required to conduct a best-value tradeoff between JHT's quotation and CSS's lower-priced quotation. For the reasons discussed below, we conclude that NOAA reasonably evaluated the technical quotations in accordance with the solicitation.<sup>3</sup>

Where, as here, an agency issues an RFQ to FSS contractors under FAR subpart 8.4 and conducts a competition, 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. LS3 Techs. Inc., B-407459, B-407459.2, Jan. 7, 2013, 2013 CPD ¶ 21 at 4. A protester's disagreement with the agency's judgment, without more, does not establish that the evaluation was unreasonable. DEI Consulting, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2.

---

<sup>2</sup> The SSA for this procurement was also the contracting officer. CO Statement at 15.

<sup>3</sup> Although this decision does not address all of the protester's arguments in detail, we have considered each and find that none provides a basis to sustain the protest.

## Evaluation of Information Technology Security Requirements

JHT first argues that the agency should have assessed a deficiency to CSS's quotation under the management approach factor for failing to adequately address the RFQ's information technology (IT) security requirements.

Of relevance here, the RFQ's statement of work (SOW) included a section entitled, "IT Security Requirements." SOW at 10. This section required that the contractor meet the Department of Commerce IT Security Program Policy (ITSP) and Commerce Information Technology Requirements (CITRs). Id. This section also included various other IT security requirements, such as specifying that the contractor must consider IT security controls throughout the lifecycle of the BPA as outlined in National Institute of Standards and Technology (NIST) Special Publication 800-64, and guarantee strict confidentiality of the information/data that is provided by the government during the performance of the call order. Id. at 11.

JHT contends that CSS's quotation failed to adequately respond to the IT security requirements. In support of this allegation, the protester points to the agency's evaluation of three other vendors, noting that the agency assessed deficiencies where their quotations failed to acknowledge the security requirements in the SOW. For example, in assessing a deficiency to one of the other vendors, the agency explained:

No IT security protocols were mentioned in the quote. Pages 10-15 of the [SOW] specify IT security requirements to be addressed by vendors. Specifically, the contractor is required to meet the [Department of Commerce] DOC IT Security Program Policy and the Commerce Information Technology requirements.

AR, Tab 6a, TER, at 45.

In response to the protest, the chair of the TET explains that, in evaluating quotations, the agency considered whether the vendors "reference[d] security considerations" in their quotations. AR, Tab 12, Declaration of TET Chair (Apr. 4, 2018), at 2. The TET Chair states that if they did not, "the TET determined that the vendor did not have [the] awareness, capability and understanding of NOAA's requirements necessary for performance and a deficiency was given." Id.

Specific to CSS's quotation, the TET Chair explains that "the consensus reached by the full TET [was] that the information provided in the CSS [quotation] regarding IT Security reasonably met the requirements of the RFQ." Id. Specifically, he states that CSS provided "adequate documentation of awareness and capability to meet the IT Security Requirements," including a "quality assurance plan that includes NOAA Security Standards." Id. In addition, the TET Chair points to a statement in CSS's quotation that the vendor would provide "[p]rocessing, training, and oversight to meet all SECURITY requirements," as well as the following:

Our [CSS] Corporate Security Plan defines procedures, responsibilities, and systems for maintaining physical and electronic security . . . . All on-site employees complete NOAA Cyber Security Awareness Training within five days of contract award, and comply with all security requirements as specified in the Solicitation.

AR, Tab 5a, CSS Quotation, at 15.

Despite these statements in CSS's quotation, the protester maintains that the agency should have assessed a deficiency because CSS's quotation "failed to mention the words 'IT Security,'" and also failed to mention specifically other IT requirements, such as the Department of Commerce ITSP or the CITRs. Protester's Supp. Comments at 2-3. The protester adds that, in contrast, "JHT's [quotation] merited a strength for its detailed, proven approach to ensuring compliance with IT Security requirements[.]" Protester's Comments at 2.

Based on our review of the record, we find nothing unreasonable regarding the agency's evaluation. As the agency explains and the record reflects, the agency evaluated whether vendors "reference[d] security considerations," and if so, concluded that the quotations demonstrated "an awareness, capability and understanding of NOAA's requirements." AR, Tab 12, Declaration of TET Chair at 2. Although JHT maintains that the agency's evaluation was improper because CSS's quotation "failed to propose an adequate approach to IT Security," Protester's Comments at 5, the solicitation did not require the level of detail asserted by the protester.<sup>4</sup> Rather, the RFQ required only that vendors "indicate their management capacity to provide the required mission based services described in the SOW." RFQ at 25. To the extent the protester believes that CSS's quotation failed to satisfy this requirement, such disagreement with the agency's judgment, without more, is insufficient to render the evaluation unreasonable. See DEI Consulting, supra. On this record, we find no basis to sustain the protest.

---

<sup>4</sup> We also find unavailing the protester's arguments that its quotation should have received two strengths (or significant strengths) for its "comprehensive and proven IT Security plan that addressed the requirements of the SOW," and for its training program. Protester's Comments at 6. As relevant here, the agency defined "strength" to mean "[a]n element of the quote, which exceeds [the] minimum requirement of the RFQ in a beneficial way to NOAA." AR, Tab 2, Evaluation Plan, at 3. With regard to IT Security, although JHT asserts that its security plan was "particularly robust by comparison to the other offerors," Protester's Comments at 6, the protester has not demonstrated that its quotation exceeded the minimum SOW requirements such that it merited a strength or significant strength. Likewise, the protester has not demonstrated that its training plan exceeded the minimum SOW requirements so as to merit a strength. Accordingly, we find these arguments provide no basis to sustain the protest.

## Evaluation of Recruitment Strategy

The protester next argues that the agency unreasonably assessed a strength to CSS's quotation under the management approach factor for CSS's proposed recruitment strategy for incumbent personnel.

The TET assessed a strength to CSS's quotation under the management approach factor for CSS's "detailed and comprehensive workforce recruitment strategy," which the TET explained "includ[ed] but [was] not limited to dedicated recruiters and an automated computerized recruitment program." AR, Tab 6a, TER, at 7. The TET further noted that CSS's recruitment capabilities were "well aligned with NCCOS science and administrative needs including but not limited to existing NOAA programs." Id. In addition, the TET stated that CSS's program manager, "who has experience in both management and science, will lead recruitment," and will be supported by an "in-house recruiter." Id. The TET also noted that CSS "offers to work with various NOAA entities and employee diversity organizations with a focus on minority programs," and that CSS "demonstrated capability in recruiting various different labor support areas ranging from administrative support, financial, IT and professional science services." Id. Finally, the TET explained that CSS's stated goal was to transition incumbent staff "at current or higher compensation levels." Id. The TET concluded that the benefits of CSS's recruitment strategy would be a "highly skilled workforce with high likelihood of incumbent capture and low risk of unsuccessful provision of science services." Id.

JHT argues that the TET's statement--that CSS's goal is to transition incumbent staff at "current or higher compensation levels"--was based, in part, on a misreading of CSS's quotation, which the protester asserts, was "internally inconsistent about the nature of [CSS's] intention to retain incumbents and does not promise any compensation match." Protester's Comments at 7. In this regard, the protester maintains that, in light of CSS's proposed labor rates, which the protester asserts were too low to allow CSS to match the incumbent salaries, it was unreasonable for the agency to interpret CSS's quotation to mean that CSS would retain incumbent personnel by matching their salaries. We find no merit to this argument.

Although the protester argues that the allegedly low labor rates proposed by CSS should have raised concerns regarding whether CSS intended to match incumbent salaries, the RFQ required only that vendors propose fully-burdened GSA schedule labor rates for specified labor categories. RFQ at 26. As such, the solicitation did not require that vendors provide salary information, and the agency did not have access to vendors' salary information, as the protester asserts.<sup>5</sup>

---

<sup>5</sup> The protester also argues that, to the extent the agency believed CSS intended to use benefits to compensate for lower salaries, such a conclusion was unreasonable because "CSS's benefits and JHT's benefits [were] no different." Protester's Comments at 8. We find no merit to this argument. Although the vendors provided some of the same benefits, the record reflects that CSS's quotation was more detailed with regard to  
(continued...)

Further, the protester's argument in this regard is tantamount to requiring that the agency conduct a price realism analysis. As relevant here, the RFQ provided that prices would be evaluated for fairness and reasonableness; it did not provide for a price realism analysis. RFQ at 28. An agency's concern in making a price reasonableness determination focuses on whether the offered prices are too high, rather than too low. Vital Link, Inc., B-405123, Aug. 26, 2011, 2011 CPD ¶ 233 at 6. Arguments that the agency did not perform an appropriate analysis to determine whether prices are too low, such that there may be a risk of poor performance, concern price realism not price reasonableness; price realism is not required to be evaluated by the agency unless the solicitation provides for such an analysis. SDV Solutions, Inc., B 402309, Feb. 1, 2010, 2010 CPD ¶ 48 at 4. Here, JHT acknowledges that the solicitation did not require a price realism evaluation. The protester argues, however, that the agency failed to "identify and explore concerns about CSS's ability to perform at rates slashed from its schedule rates across the board[.]" Protester's Comments at 8. To the extent JHT contends that the agency failed to consider whether CSS's proposed labor rates were too low, such an evaluation was not permitted by the RFQ.

In sum, with regard to incumbent hires, CSS's quotation stated that its goal was to "avoid transition impacts on schedule, cost, and performance," and to "transition all incumbent staff whom NOAA identifies [as] important[.]" AR, Tab 5, CSS Quotation, at 10. It also stated that CSS had "already identified and evaluated the salary requirements of several JHT staff," and "will offer salaries and benefits that compare with or exceed current compensation packages to ensure a very high transition rate." Id. at 12. In addition, CSS's quotation stated that its "[r]etention benefits and performance incentives have resulted in [its] exceptional [DELETED] retention rate, contributing to long-term continuity of [National Centers for Coastal Ocean Sciences] NCCOS programs." Id. at 10. On this record, we find nothing unreasonable regarding the agency's conclusion that CSS's goal is to transition incumbent staff at current or higher compensation levels than provided by the incumbent, and that this approach will result in a high likelihood of incumbent capture.<sup>6</sup> AR, Tab 6a, TER, at 7.

---

(...continued)

benefits, and included some benefits not offered by JHT. Compare AR, Tab 5, CSS Quotation, at 10-11, with, Tab 4, JHT Quotation, at 11.

<sup>6</sup> The protester also argues that JHT's "immediate, proven ability" to "recruit and retain its own incumbent personnel" should have been a "significant discriminator in JHT's favor." Protester's Comments at 9. To the extent the protester is arguing that the TET failed to acknowledge the strength of this aspect of the protester's quotation, we disagree. The TET assessed a significant strength to JHT under the management approach factor for its phase-in/phase-out plan, stating that, as the incumbent contractor, there would be "little to no loss of work efficiency with the new contract." AR, Tab 6a, TER, at 16. In addition, the TET assessed a strength to JHT for its "strong recruitment plan" and "ability to provide a realistic source of personnel" given that "JHT has existing well-qualified incumbent staff in place and anticipate a high level of continuity of staff since JHT is the incumbent." Id. The TET assigned another strength

(continued...)

## Bait and Switch

Finally, the protester challenges a significant strength assessed to CSS's quotation under the management approach factor for CSS's proposed program manager. Specifically, the protester points to a question noted in one evaluator's individual rating sheet for CSS, which states, with regard to the program manager: "How is a bait and switch avoided?" AR, Tab 6b, CSS Individual Rating Sheets, at 3. The protester argues that "NOAA ignored its own evaluator's concerns that CSS's proposed Program Manager was a bait and switch." Protester's Comments at 9. There is no indication in the record, however, nor does the protester provide any citations or evidence to demonstrate, that the evaluators believed that CSS intended to engage in a bait and switch. The protester also does not demonstrate, or even allege, that CSS, in fact, engaged in an improper bait and switch. On this record, we find no basis to sustain this ground of protest.

The protest is denied.

Thomas H. Armstrong  
General Counsel

---

(...continued)

to JHT for "strong retention capabilities" noting its claimed "[DELETED] retention rate with NOAA for the past six years." Id. at 17. In sum, we find this allegation provides no basis to sustain to protest.