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**United States Government Accountability Office  
Washington, DC 20548**

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## **Decision**

**Matter of:** Advanced Technology Systems, Inc.

**File:** B-296493.5

**Date:** September 26, 2006

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R. René Dupuy, Esq., and Joseph L. Brinkley, Esq., Department of Housing and Urban Development, for the agency.  
Louis A. Chiarella, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### **DIGEST**

1. Protest challenging the evaluation of technical proposals is denied where the record establishes that the agency’s evaluation was reasonable and consistent with the evaluation criteria.
2. Protest challenging the evaluation of vendors’ past performance is denied where the record establishes that the agency’s evaluation was reasonable and consistent with the stated evaluation criteria.
3. An agency’s unreasonable conclusions regarding the awardee’s proposed staffing levels did not prejudice the protester since these conclusions were not a material element in the agency’s determination that the awardee’s higher technically rated, higher-priced quotation represented the best value to the government.

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### **DECISION**

Advanced Technology Systems, Inc. (ATS) protests the award of a blanket purchase agreement (BPA) by the Department of Housing and Urban Development (HUD) to Pyramid Systems Inc. (PSI) under that firm’s General Services Administration (GSA) Federal Supply Schedule (FSS) contract, pursuant to request for quotations (RFQ) No. R-OPC-22661 for operational support and corrective maintenance services in

support of the HUD Tenant Rental Assistance Certification System (TRACS).<sup>1</sup> ATS argues that the agency's evaluation of vendors' quotations was unreasonable and the subsequent source selection decision improper.

We deny the protest.

## BACKGROUND

TRACS is a computer system developed to help improve HUD's financial controls over agency-administered multifamily housing assistance programs, by automating manual procedures and incorporating automated controls. TRACS represents HUD's official source of data on multifamily housing subsidy contracts, tenant rental assistance information, and voucher payments. TRACS is designed to collect tenant data, certify tenant eligibility for financial assistance under various project-based assistance programs, authorize payment, and then process requests for payment (vouchers) to project owners, management agents, and other third-party contract administrators. In fiscal year 2003, TRACS processed approximately 221,000 financial transactions worth approximately \$4.7 billion. As currently configured, TRACS consists of three primary business systems and seven significant subsystems that together provide HUD with an integrated tenant/voucher/contract data database and corresponding financial management system. Agency Report (AR), July 20, 2006, at 3-4; Tab 2, HUD Request for Contract Services, at 8.

The RFQ, issued on August 20, 2004, contemplated the award of a fixed-price BPA for a base year with four 1-year options to provide various supporting maintenance, development, and project management services in furtherance of TRACS.<sup>2</sup> The solicitation included a performance work statement (PWS), instructions to vendors on the submission of quotations, and evaluation factors for award. The RFQ identified five evaluation factors, all of equal importance: technical capability; project management; past performance; staffing and resources; and price. Award was to be made to the vendor whose written quotation and oral presentation were determined to be the "best value" to the government, all factors considered. RFQ amend. 1, Revised Evaluation Factors, at 2.

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<sup>1</sup> While our decision refers to the "award" of a BPA, which is the terminology used by the parties here, the Federal Acquisition Regulation (FAR) in fact refers to the "establishment" of a BPA against an FSS contract. FAR §§ 8.403(a)(2), 8.404(b).

<sup>2</sup> The solicitation informed vendors that the awarded BPA could also result in the issuance of fixed-price, level-of-effort task orders for various analysis requirements in support of future enhancement and development efforts. RFQ at 5, Questions and Responses, at 5. A fixed-price, level-of-effort contract is suitable for the investigation or study in a specific research and development area, and payment is based on the effort expended rather than on the results achieved. FAR § 16.207-2.

Six vendors, including ATS and PSI, submitted quotations consisting of technical and price proposals by the September 16 closing date. HUD then held individual oral presentations with vendors on October 12 and 13. An agency technical evaluation team (TET) evaluated vendors' technical proposals using an adjectival rating scheme: excellent, very good, good, fair, and poor. On April 15, 2005, the TET provided the source selection authority (SSA) with its final evaluation ratings of vendors' quotations, including those of ATS and PSI, which were as follows:

<b>Factor</b>	<b>ATS</b>	<b>PSI</b>
Technical Capability	Excellent	Excellent
Project Management	Good	Very Good
Past Performance	Very Good	Excellent
Staffing and Resources	Excellent	Excellent
Overall	Very Good	Excellent
Price <sup>3</sup>	\$12,791,682	\$13,008,602

AR, Tab 12, TET Report, at 2, 121.

Based on consideration of vendors' technical ratings, prices, and total labor hours proposed, the TET recommended to the SSA that PSI's proposal represented the best value to the agency. *Id.* at 121. On April 28, after having reviewed the TET's report and findings, the SSA determined that PSI's higher-priced, higher technically rated quotation represented the best value to the government. *Id.*, Tab 13, Source Selection Decision, Apr. 28, 2005, at 1-2.

On May 23, 2005, ATS filed a protest with our Office asserting that the agency's evaluation of offerors' quotations was unreasonable and the subsequent source selection decision improper. On July 29, our Office conducted a hearing in order to further develop certain of the protest issues. On August 1, HUD provided notice that it was taking corrective action in response to ATS's protest by reevaluating vendors' quotations and making a new source selection decision. Letter from HUD to GAO, Aug. 1, 2005. Based on the agency's announced corrective action, we dismissed ATS's May 23 protest without rendering a decision on the merits. Advanced Tech. Sys., Inc., B-296493, B-296493.2, Aug. 3, 2005.

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<sup>3</sup> The evaluated price consisted of vendors' proposed prices for the base year and option year task orders, as well as prices for a sample task order. AR, Tab 12, TET Report, at 112.

On May 25, 2006, approximately a year later, HUD completed its reevaluation of vendors' technical and price proposals, with the final revised ratings for ATS and PSI as follows:

<b>Factor</b>	<b>ATS</b>	<b>PSI</b>
Technical Capability	Excellent	Excellent
Project Management	Very Good	Excellent
Past Performance	Very Good	Excellent
Staffing and Resources	Excellent	Excellent
Overall	Very Good	Excellent
Price	\$12,791,682	\$13,008,602

AR, Tab 25, Revised TET Report, at 104-11. After consideration of technical merit and price, the TET again recommended to the SSA that PSI's quotation represented the best value to the agency. Id. at 115. After reviewing the TET's findings and recommendations, the SSA again determined that PSI's higher-priced, higher technically rated quotation represented the best value to the government. Id., Tab 26, Source Selection Decision, May 25, 2006, at 1, 4.

On June 1, HUD provided ATS with notice of its new award decision; ATS requested a debriefing the same day. HUD agreed to provide ATS with a brief explanation of the basis of its award decision, but without specifying when this would occur.<sup>4</sup> ATS then filed a second protest with our Office, challenging the agency's evaluation of vendors' quotations and award determination. Protest, June 9, 2006. On June 13, in a conference call conducted by our Office with the parties, the agency agreed to provide ATS with a brief explanation of its award decision and suspend performance of the awarded BPA, and ATS agreed to withdraw its protest. ATS subsequently withdrew its June 9 protest. GAO Confirmation of Withdrawal, June 15, 2006. On June 15, HUD furnished ATS with a brief explanation of its new award decision. On June 19, ATS filed its current protest.

## DISCUSSION

ATS's protest raises numerous challenges to the agency's evaluation of vendors' quotations under several technical evaluation factors. ATS also contends that the agency reached irrational conclusions regarding PSI's proposed level of effort, which

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<sup>4</sup> When an unsuccessful vendor requests information on the award of an order or BPA under the FSS program that was based on factors other than price alone, the ordering activity is to provide a brief explanation of the basis for its award decision. FAR § 8.405.2(d).

were then relied upon in the award determination. The protester contends that these alleged errors in the evaluation of vendors' quotations resulted in an improper source selection decision. Although we do not here specifically address all of ATS's arguments about the evaluation of quotations and the resulting source selection decision, we have fully considered all of them and find that they afford no basis to question the agency's selection decision here.

### Project Management Evaluation

ATS challenges the agency's evaluation of vendors' technical proposals under the project management factor. Specifically, the protester contends that PSI's technical proposal failed to include various submissions required by the solicitation (e.g., various project plan details, project schedule). ATS also alleges that the agency erred in its determination that ATS's technical proposal did not propose specific management tools for the TRACS project, thereby making HUD's determination that this was a discriminator between PSI's and ATS's technical proposals unreasonable. Lastly, ATS argues that the agency's evaluation of PSI's technical proposal was improper because the awardee failed to provide a sufficiently detailed transition-in plan.<sup>5</sup>

Where, as here, an agency conducts a formal competition under the FSS program for the award of a BPA or task order contract, we will review the agency's actions to ensure that the evaluation was reasonable and consistent with the solicitation and applicable procurement statutes and regulations. Worldwide Language Res., Inc., B-297210 et al., Nov. 28, 2005, 2005 CPD ¶ 211 at 3; COMARK Fed. Sys., B-278343, B-278343.2, Jan. 20, 1998, 98-1 CPD ¶ 34 at 4-5. In reviewing an agency's evaluation, we will not reevaluate vendors' quotations, see Urban-Meridian Joint Venture, B-287168, B-287168.2, May 7, 2001, 2001 CPD ¶ 91 at 2, and an offeror's mere disagreement with the agency's evaluation is not sufficient to render the evaluation reasonable. Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7; Birdwell Bros. Painting & Refinishing, B-285035, July 5, 2000, 2000 CPD ¶ 129 at 5.

ATS first contends that PSI's project management plan failed to include various submissions required by the solicitation. Specifically, the protester contends that much of the information required to be in each vendor's draft project plans and quality control plan (e.g., project schedule, program metrics) was completely absent

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<sup>5</sup> ATS's also argues that HUD's evaluation of vendors' technical proposals under the project management factor was flawed because the agency did not properly evaluate (i.e., "closely scrutinize") whether vendors' proposed labor hours and categories demonstrated the ability to perform the PWS tasks, but nevertheless reached conclusions regarding PSI's proposed level of effort which were relied on in the award determination. Protest, June 19, 2006, at 20-23. As this protest issue spans multiple evaluation factors, our review is set forth separately below.

from PSI's technical proposal, or so inadequate as to be noncompliant. ATS also alleges that PSI's project plan failed to identify which labor categories (*i.e.*, skill levels) would perform each PWS task as required by the RFQ. The protester argues that PSI's failure to provide this information, which was material to the agency's evaluation, rendered PSI's quotation ineligible for award or, at the very least, rendered the agency's evaluation unreasonable.

With regard to the project management factor, the RFQ stated that technical proposals were to demonstrate an understanding of work requirements, quality control methods, and effective methodologies for transition-in and transition-out activities. RFQ amend. 1, Revised Evaluation Factors, at 1; Revised Proposal Instructions, at 2. Vendors were also required to submit draft project plans for both the base period and a sample task order defining, among other things, the resource requirements (*i.e.*, skill levels, facilities, computer resources), the schedule, the program metrics to be employed throughout the contract period, and a Gantt chart<sup>6</sup> reduced to its lowest level, with tasks defined in greater narrative detail in the corresponding section of the Project Plan.<sup>7</sup> RFQ amend. 1, Revised Proposal Instructions, at 2. The RFQ also required the submission of a quality control plan describing the methods to be used for identifying and preventing defects in the quality of deliverables supplied to the government. Vendors were instructed that the quality control plan should include, among other things, the metrics and performance measures to be applied to ensure quality service, products, and outcomes for maintenance, operational, and development tasks specified in the TRACS PWS. Id.

PSI's technical proposal included draft project plans for both the base period and the sample task order, each of which contained a draft project schedule/Gantt chart; the technical proposal also contained a specific section which addressed the vendor's quality assurance and quality control processes (including metrics). AR, Tab 10, PSI's Quotation, Vol. I, Technical Proposal. PSI's technical proposal did not set forth the labor categories the vendor would employ for each task defined in the PWS and/or sample task order (detail required by the RFQ), but did set forth the proposed labor categories (and proposed hours by labor category) for the contract effort as a whole. The TET rated PSI's technical proposal as excellent with regard to project

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<sup>6</sup> A Gantt chart is a horizontal bar chart developed as a production control tool by Henry L. Gantt. Frequently used in project management, a Gantt chart provides a graphical illustration of a schedule that helps plan, coordinate, and track individual tasks and subtasks within a project. AR, July 20, 2006, at 11 n.6.

<sup>7</sup> The staffing and resources evaluation factor also stated that vendors were to identify those labor categories that would be assigned to perform each of the tasks defined in the PWS and sample task order. RFQ amend. 1, Revised Evaluation Factors, at 2-3.

management. Specifically, the evaluators found that PSI's draft project plans and quality control plan demonstrated the vendor's understanding of the PWS work requirements and quality control methods. AR, Tab 25, Revised TET Report, at 57-59.

In its report, the agency contends that the TET reasonably determined that PSI submitted acceptable project plans and quality control plan. HUD argues that both PSI's technical proposal and oral presentation addressed the metrics that the vendor plans to employ throughout the contract period to track progress and ensure the project achieves expected outcomes. The fact that ATS submitted a much more detailed schedule and Gantt chart, the agency argues, did not make PSI's submissions inadequate since PSI's submissions met all the requirements of the RFQ. AR, July 20, 2006, at 10-12.

In its comments on the agency report, the protester argues that even assuming PSI's abbreviated schedule and Gantt chart were sufficient to satisfy the RFQ's requirements, ATS's extensive and highly detailed schedule and Gantt chart were advantages of ATS's technical proposal and reflected a deeper understanding of the TRACS effort. Similarly, the protester asserts that the agency ignored the fact that PSI's generic listing of typical metrics was not comparable to ATS's detailed and TRACS-specific metrics. Comments, July 31, 2006, at 7-8.

We find that the TET reasonably determined that PSI submitted an acceptable draft project plan, project schedule/Gantt chart, and quality control plan; the fact that ATS's proposal contained a more detailed schedule and Gantt chart does not show that PSI's submissions were inadequate. Further, while ATS contends that PSI's technical proposal failed to comply with various RFQ submission requirements, the protester has failed to show that any particular aspects of HUD's subsequent evaluation were unreasonable based on the information that was contained in PSI's technical proposal. For example, ATS argues that PSI's technical proposal lacked an adequate schedule and Gantt chart, yet ATS offers no basis to conclude that PSI's schedule and Gantt chart demonstrated that the awardee did not understand the TRACS work requirements.

Lastly, the protester argues that its more detailed submissions should have been recognized as a strength by the agency because they were appreciably different than PSI's submissions and demonstrated a much greater understanding of the TRACS effort. In our view, this amounts to mere disagreement with the agency's evaluation, which does not render it unreasonable. Birdwell Bros. Painting & Refinishing, supra.

ATS also asserts that the agency's evaluation of its project management plan was improper because HUD failed to recognize that ATS's technical proposal, like PSI's, included a specific management tool for the TRACS project. Specifically, the TET found that one of the strengths in PSI's technical proposal was its use of a risk management tool, Rational ClearQuest, and, conversely, that ATS's technical

proposal did not present specific management tools for the TRACS project.<sup>8</sup> ATS contends that it did in fact propose a specific management tool for the project—it was simply a different management tool than that proposed by PSI but one that performed the same functions and had comparable features.

Within its project management plan, PSI proposed the use of Rational ClearQuest as part of its risk management process. AR, Tab 10, PSI's Quotation, Vol. I, Technical Proposal, at 2-11. The TET considered Rational ClearQuest to be a "feature-rich" project management tool, and found this aspect of PSI's proposal to be a strength under the project management factor.<sup>9</sup> *Id.*, Tab 25, Revised TET Report, at 59, 107. ATS's technical proposal also addressed automated project management tools. Specifically, ATS's Quality Control Plan stated that it used a tool called PVCS Tracker to manage configuration and change control issues through the project life cycle. *Id.*, Tab 8, ATS's Quotation, Vol. I, Technical Proposal, App. D, Quality Control Plan, at 25, 28. However, under a separate section entitled "project management," ATS also stated that it would "use Microsoft Project as its main project planning and management tool." *Id.* at 28. In its oral presentation, ATS then stated that it planned to use PVCS Tracker, but had not made a final determination regarding its planned project management tool. *Id.*, Tab 27, Declaration of TET Chairperson, July 20, 2005, at 5. The TET determined that ATS's project management plan met all stated requirements, but did not propose a specific management tool for the TRACS project. *Id.*, Tab 25, Revised TET Report, at 13-14, 112.

Subsequent to the filing of ATS's first protest in 2005, the agency submitted a statement from the TET chairperson comparing the features of Rational ClearQuest to PVCS Tracker and Microsoft Project. The lead agency evaluator stated that Rational ClearQuest was considered to be an innovative piece of software in the project management area, as it was interactive with the client and contractor and provided the ability to determine real-time project status (akin to a car's fuel gauge providing real-time status). Further, if there were a system issue, Rational

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<sup>8</sup> Rational ClearQuest is an IBM-created project management software tool. It automates and tracks the tasks in the software development and maintenance process; it also identifies risks, timelines, and project status throughout the project life cycle. As a project management tool, Rational ClearQuest assists the project manager in limiting risk. AR, Tab 27, Declaration of TET Chairperson, July 20, 2005, at 4.

<sup>9</sup> The TET stated, "The PSI Team uses a risk management tool 'Rational ClearQuest' for managing risk on its larger projects. Rational ClearQuest is customized for each project. . . . Thus, the risk management process can begin immediately upon project start-up. The PSI Team's baseline risk management plan is reviewed by the project/task manager and adapted to the specific task at its inception." AR, Tab 25, Revised TET Report, at 59.



ClearQuest (in conjunction with PSI's proposed web portal) would immediately send out a warning message. By contrast, PVCS Tracker is not as robust or innovative as Rational ClearQuest, and Microsoft Project is not an interactive, automated project management tool, but rather a static tool that does not provide real-time warnings or system status. Id., Tab 27, Declaration of TET Chairperson, July 20, 2005, at 4-5, 8.

ATS disputes the agency's determination that Rational ClearQuest is more robust than PVCS Tracker. Further, the protester contends that it clearly proposed to use PVCS Tracker and the fact that the agency may have had a preference for one management tool over another is not sufficient to support the agency's evaluation. Comments, July 31, 2006, at 8-9.

We need not decide whether PVCS Tracker is comparable to Rational ClearQuest, as the record reflects that it was anything but clear what management tool or tools the protester was proposing to employ for the TRACS project. ATS's Quality Control Plan stated in one section that PVCS Tracker would be used to manage configuration and change control issues. AR, Tab 8, ATS's Quotation, Vol. I, Technical Proposal, App. D, Quality Control Plan, at 25. However, in a different section entitled project management, ATS stated that it would "use Microsoft Project as its main project planning and management tool." Id. at 28. ATS's subsequent oral presentation then added to the ambiguity here when the vendor stated that it planned to use PVCS Tracker, but also had not made a final determination regarding its planned project management tool. We find that, faced with such uncertainty, the TET reasonably determined that ATS's technical proposal did not present a specific management tool for the TRACS project.

ATS also argues that HUD's preference for PSI-proposed Rational ClearQuest as the TRACS management tool is not a discriminator that justified the agency paying a higher price. Comments, July 31, 2006, at 9. The protester essentially contends that HUD's decision to view this aspect of PSI's technical proposal to be of value to the agency, as well as the weight given to it, were unreasonable. In our view, ATS has offered little more than mere disagreement with the agency's judgment about the value of PSI's proposed use of Rational ClearQuest; ATS has not established that this judgment was unreasonable. The OMO Group, Inc., B-294328, Oct. 19, 2004, 2004 CPD ¶ 212 at 5, 8 (a protester's disagreement with an agency's evaluation does not establish that the evaluation was unreasonable).

ATS also protests that the agency's evaluation of PSI's technical proposal under the project management factor was improper because PSI failed to provide a sufficiently detailed transition-in plan. The protester points to the fact that, in its original evaluation, the TET considered PSI's transition-in plan to be a weakness, thereby resulting in PSI receiving an evaluation rating of very good. However, while vendors' technical proposals remained unchanged, the TET's revised evaluation, without explanation, failed to identify a similar weakness in PSI's transition-in plan, thereby resulting in PSI receiving a revised project management rating of excellent, rather

than very good. ATS argues that the agency's evaluation of PSI's technical proposal here was unreasonable, and to the extent that HUD lowered the standard for PSI here, it should have done the same for ATS, which was rated as very good instead of excellent under the project management factor.

As set forth above, the RFQ required vendors' project management plans to demonstrate, among other things, an understanding of effective methodologies for transition-in and -out activities. RFQ amend. 1, Revised Evaluation Factors, at 1. The solicitation also instructed vendors to identify the tasks associated with the installation and setup of all necessary facilities, software, and firmware, and training tasks to meet the needs of new project resources. Additionally, the PWS established that instead of HUD's office facilities in Washington, DC, the contractor would provide the office space requirements necessary to perform the TRACS contract at a location within a 25-mile radius from HUD headquarters. PWS at 30.

Incumbent contractor ATS submitted a transition plan as part of its technical proposal. With regard to transition-in, ATS's plan consisted of one paragraph and a brief, durational-type schedule; the plan did not address the physical relocation of the place of performance. AR, Tab 8, ATS's Quotation, Vol. I, Technical Proposal, App. C, Transition Plan. The TET in both its initial and revised evaluations found that ATS's transition-in plan consisted of generalized statements and lacked sufficient supporting details, and constituted a weakness. *Id.*, Tab 12, TET Report, at 13; Tab 25, Revised TET Report, at 13. The TET's determination that ATS's transition-in plan lacked sufficient detail resulted in ATS receiving a very good (and not excellent) rating for project management.

PSI also provided a transition plan as part of its technical proposal. *Id.*, Tab 10, PSI's Quotation, Vol. I, Technical Proposal, App. C, Transition Plan. In its initial evaluation, the TET found that PSI's transition-in plan identified all tasks associated with the installation and setup of all necessary facilities and software, and that the sole deficiency was that the proposed 10-day transition-in period was considered an insufficient and unrealistic timeframe in which to perform successfully. *Id.*, Tab 12, TET Report, at 61. The TET's revised evaluation did not find a similar weakness in PSI's transition-in plan. *See id.*, Tab 25, Revised TET Report, at 59-60. The agency explains that the reason that PSI's proposed 10-day transition-in period was not considered a weakness during the reevaluation of vendors' technical proposals was that the TET was aware that PSI actually did successfully transition-in (within 10 days) in May 2005 after the initial award determination. AR, July 20, 2006, at 14.

ATS argues in response that while PSI may have performed some, or even most, of the transition-in tasks in May 2005, PSI did not completely transition and assume operational control of TRACS until June 2006. Moreover, the protester argues that the TET's evaluation of vendors' transition plans was still disparate because the agency did not also take into account ATS's prior successful physical relocations of TRACS when evaluating its transition plan. Comments, July 31, 2006, at 9-10.

While agency evaluators may consider and rely upon information of which they are personally aware in the course of evaluating a vendor's quotation, see Del-Jen Int'l Corp., B-297960, May 5, 2006, 2006 CPD ¶ 81 at 7, evaluators must treat all vendors equally. See Infrared Tech. Corp.—Recon., B-255709.2, Sept. 14, 1995, 95-2 CPD ¶ 132 at 4-5. We need not decide whether the TET's evaluation of vendors' transition plans was disparate, however, because the record demonstrates that any error here was not prejudicial to ATS.

As a preliminary matter, we note that had the TET not considered PSI's transition-in performance in May 2005 (or, alternatively, if the TET had considered ATS's prior physical relocations of TRACS), it is clear from the record that the protester would have received at best a rating equal to that of PSI. More importantly, in its recommendations to the SSA, including a head-to-head comparison of PSI's and ATS's quotations, the TET did not focus on the vendors' adjectival ratings, but properly looked behind the ratings and considered the underlying qualitative merits that distinguished the vendors' technical proposals. With regard to project management, the TET did not find ATS's (or PSI's) transition plan to be a reason for recommending selection of PSI. Rather, the TET considered the key difference between the vendors' project management plans to be PSI's use of automated tools (*i.e.*, Rational ClearQuest and a web portal) that ATS's technical proposal did not include. AR, Tab 25, Revised TET Report, at 112. The SSA also did not find vendors' transition plans to be a discriminating feature, determining instead that PSI's proposed automated tools were the difference between technical proposals that both demonstrated effective project management. *Id.*, Tab 26, Source Selection Decision, May 25, 2006, at 2. As vendors' transition plans were not considered in the agency's award determination, any disparate evaluation here simply did not prejudice the protester.

#### Past Performance Evaluation

ATS protests that HUD's evaluation of vendors' past performance, under which PSI received an "excellent" and ATS a "very good" rating, was improper. ATS first argues that the agency's evaluation of ATS's past performance was unreasonable because HUD improperly determined that one of the vendor's three contract references did not involve same or similar work in the area of comparable IT architecture and software toolsets, thereby resulting in the assessment of a weakness. Further, ATS contends that the agency's evaluation of vendors' past performance was disparate, insofar as none of PSI's references met all criteria for same or similar work in the area of comparable IT architecture and software toolsets. The protester argues that had the agency properly evaluated vendors' past performance, then ATS and PSI would have been rated equally under this evaluation factor.

Where a solicitation requires the evaluation of vendors' past performance, we will only examine the agency's evaluation to ensure that it was both reasonable and

consistent with the solicitation's evaluation criteria, since determining the relative merits of vendors' past performance information is primarily a matter within the contracting agency's discretion. See Metro Mach. Corp., B-295744, B-295744.2, Apr. 21, 2005, 2005 CPD ¶ 112 at 21; Hanley Indus., Inc., B-295318, Feb. 2, 2005, 2005 CPD ¶ 20 at 4.

Here, the RFQ required vendors to submit three references for work performed in the past 3 years that was "same or similar" to the effort identified in the PWS. RFQ amend. 1, Revised Proposal Instructions, at 4. For each contract reference provided, the solicitation required vendors to identify, among other things, the specific technical environment (e.g., database type, reporting tools, software development language, Section 508 tools, configuration management tools, and application service software/tool). *Id.* In turn, the PWS informed vendors of the existing TRACS infrastructure (e.g., IBM OS390 as the mainframe operating system; Advantage Gen as the application development tool, connectivity tool, and enterprise server platform development tool; Endeavor as the applications configuration management software).<sup>10</sup> PWS, App. D, at 42.

ATS's technical proposal contained three contract references: (1) ATS's incumbent TRACS contract; (2) ATS's Single Family Premiums Collection Subsystem (SFPCS) contract with HUD; and (3) the subcontract of proposed subcontractor Zen Technology, Inc. with HUD for the Program Accounting System and Line of Credit Control Systems (PAS/LOCCS). For each contract reference, ATS provided a narrative description of the work performed and purported relevance to the TRACS PWS, as well as the reference's technical operating environment. AR, Tab 8, ATS's Quotation, Vol. I, Technical Proposal. With regard to the Zen contract reference, ATS's technical proposal represented that the PAC/LOCCS technical environment utilized a Unisys 2200 mainframe operating system, and that the toolsets employed included ColdFusion, HTML, and JavaScript. *Id.* at 3-9.

The TET found that ATS's TRACS and SFPCS references involved work that was the same as or similar to the work requirements here; the TET also determined that the demonstrated experience, relevance, and quality of ATS's performance on these two references warranted the assessment of three strengths. *Id.*, Tab 25, Revised TET Report, at 16-17. However, with regard to ATS's third contract reference--proposed subcontractor Zen's work on PAS/LOCCS--the TET found that while the referenced work was the same as or similar to TRACS with regard to demonstrated experience with systems with multiple collections and feeder systems processes, it was not the same or similar with regard to comparable IT architecture and software toolsets.<sup>11</sup>

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<sup>10</sup> The solicitation's instructions to vendors also set forth a complete listing of TRACS toolsets and architecture. RFQ amend. 1, Revised Proposal Instructions, at 1.

<sup>11</sup> The TET stated, "[w]hile significant experience is demonstrated with mainframe and Internet tools at HUD, some of the primary toolsets used on the TRACS project (continued...)

Id. at 16. The TET considered the inability of ATS's Zen contract reference to demonstrate experience in TRACS toolsets and architecture to be a weakness. Id.

ATS does not dispute that its Zen contract reference did not identify the specific mainframe operating system and/or software toolsets set forth in the PWS. Rather, ATS argues that PAS/LOCCS involved work that was the same as or similar to TRACS because they both operate in the same computing architecture, namely, the HUD Information Technology System (HITS) environment, and share a common web hosting environment, web security module, and common network storage system. Protest, June 19, 2006, at 30. We disagree. The agency reasonably determined that the PAC/LOCCS technical environment, as evidenced by its mainframe operating system and toolsets, was not the same as or similar to the TRACS technical environment. The fact that TRACS and PAS/LOCCS may share a common web hosting environment and network storage system, as the protester contends, simply does not mean that the two projects have a comparable IT architecture and software toolsets as defined by the solicitation here.

ATS also argues that the agency evaluated vendors' past performance on a disparate basis with respect to whether the vendors' prior contracts involved use of TRACS software toolsets.

It is fundamental that the contracting agency must provide a common basis for the preparation and the submission of quotations and not disparately evaluate vendors with respect to the same requirements. See Lockheed Martin Info. Sys., B-292836 et al., Dec. 18, 2003, 2003 CPD ¶ 230 at 11-12; Rockwell Elec. Commerce Corp., B-286201 et al., Dec. 14, 2000, 2001 CPD ¶ 65 at 5. Here, PSI's technical proposal contained three past performance references, including that of proposed subcontractor SPS under a contract with the US Patent & Trademark Office (USPTO) for the Revenue and Accounting Management System (RAM) project. AR, Tab 10, PSI's Quotation, Vol. I, Technical Proposal, at 3-11. PSI's technical proposal also included a description of the RAM project's type of work and technical environment, stating that SPS migrated USPTO's legacy system from a COBOL/DMSII application to a distributed client/service Advantage Gen application, and SPS developed the RAM system using the information engineering methodology and Advantage Gen integrated tool suite. Id. at 3-13 to 3-15. In its evaluation of PSI's past performance, the TET found that all three of PSI's references, including the SPS RAM reference, demonstrated comparable IT architecture and software toolsets to those identified in the solicitation. Id., Tab 25, Revised TET Report, at 61-62.

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are not represented. Specifically, the IBM mainframe operating system software (MVS/390), DB2, BMC, CICS and Endeavor are not mentioned, nor are Advantage:Gen or EASEL." Id. at 16.

The record reflects, as the protester contends, that PSI's SPS reference did not identify many of the specific toolsets for which ATS's Zen reference was faulted. However, it is clear that in evaluating vendors' past performance, including their use of products similar to the TRACS architecture and software toolsets, the agency's primary focus was on whether the references demonstrated use of Advantage Gen. As set forth above, the PWS identified Advantage Gen as a core toolset of TRACS—it was the application development tool, connectivity tool, and enterprise server platform development tool. The technical capability and staffing and resources evaluation factors also both emphasized the importance of Advantage Gen experience. Quite simply, the agency's decision to emphasize Advantage Gen use in its evaluation of vendors' past performance was not unreasonable or inconsistent with the stated evaluation criteria.

The record clearly shows that all of PSI's references, including that of SPS, demonstrated use of Advantage Gen. By contrast, ATS's Zen reference did not demonstrate Advantage Gen use; the Zen reference also did not identify use of a mainframe operating system comparable to TRACS. In sum, rather than an improperly disparate evaluation of two vendors with a common set of underlying facts, the record shows an evaluation based on different underlying facts that reasonably resulted in different evaluation ratings.

#### Technical Capability Evaluation

ATS protests that HUD's evaluation of vendors' technical proposals under the technical capability factor was unreasonable. Specifically, the protester alleges that, notwithstanding the fact that ATS and PSI both received excellent ratings, the agency's consideration of "new technologies and toolsets" in its evaluation of PSI's technical proposal constituted an unstated evaluation criterion. Alternatively, ATS contends that the TET-identified "new technologies and toolsets" technical enhancement was not a distinguishing feature of PSI's technical proposal because ATS's technical proposal offered the same feature. Finally, ATS argues that HUD placed too much weight upon this discriminator in its source selection decision.

The PWS established that one of the primary objectives of the procurement was enhancing the TRACS system to meet multifamily housing program objectives. PWS at 1. Specifically, in addition to providing operational support and corrective maintenance services on the current system, the PWS required the contractor to perform both perfective maintenance (*i.e.*, the restructure of system components to expedite processes and functions and/or adapt and certify the system software to upgraded/ changing system architectural standards) and future development (addressing new functional modules, new interfaces, and new data-gathering

requirements and processing techniques) tasks as identified.<sup>12</sup> Id. at 1, 19-23. The RFQ in turn stated, with regard to the technical capability factor, that vendors' technical proposals were to demonstrate the technical capability to provide expertise in information technology life-cycle support services as specified in the PWS for the stated maintenance, operations, and future development requirements. RFQ amend. 1, Revised Evaluation Criteria, at 1-2.

In its evaluation of ATS's technical proposal under the technical capability factor, the TET found that ATS fully met all stated requirements; the evaluators also identified three specific strengths and no weaknesses, and rated ATS's technical proposal as excellent. AR, Tab 25, Revised TET Report, at 5-9.

In the evaluation of PSI's technical proposal under this factor, the TET found that PSI also fully met all stated requirements. Again the TET identified three specific strengths and no weaknesses, and rated PSI's technical proposal as excellent. Id. at 54. One of the strengths that the TET found in PSI's technical proposal was the vendor's "demonstrated expertise with the migration of older, less efficient architectures (mainframe and client-server) and toolsets to emerging, more efficient (e.g., web-based, J2EE) technologies that are currently recommended as standards in . . . HUD's target architecture." Id. at 110, 55, 107. The protester does not challenge the TET's determination that PSI's technical proposal demonstrated expertise in new technologies and toolsets and in emerging technology migrations. The evaluators also found PSI's expertise in new technologies and toolsets to be a discriminator between PSI's and ATS's technical proposals. Specifically, the TET stated that "[t]he [PSI] team offered expertise in and availability of emerging technologies and toolsets that were not offered by ATS. The technologies and toolsets are those earmarked for the HUD Enterprise Architecture – i.e., Java/JHSP, J2EE, and Oracle 9i." Id. at 112. The SSA subsequently found this technical distinction (i.e., that PSI offered expertise in new technologies and toolsets and emerging technology migrations that were not offered by ATS) to be one of the stated reasons for his determination that PSI's higher technically rated, higher-priced quotation represented the best value to the government. Id., Tab 26, Source Selection Decision, May 25, 2006, at 2.

We find HUD's consideration of expertise with new technologies and toolsets as part of the evaluation of vendors' technical capability here was consistent with the stated evaluation criteria. As set forth above, the PWS required the

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<sup>12</sup> The PWS also detailed the specific future enhancement and development efforts that were to be provided in support of TRACS, stating, "The contractor shall support [the] transition to the new HUD Information Technology Services (HITS) infrastructure. The contractor shall perform analysis, testing, and make the necessary changes to TRACS to work properly on the new HITS hardware/software/teleprocessing infrastructure." PWS at 2, 24.

contractor to support the transition of the TRACS system to the new HITS infrastructure. Similarly, the RFQ established that, as part of the technical capability evaluation factor, vendors' technical proposals were to demonstrate the technical capability to provide expertise in information technology life-cycle support services for, among other things, the PWS's future development requirements. RFQ amend. 1, Revised Evaluation Factors, at 1-2. In light thereof, the agency did not employ an unstated evaluation criterion when finding as a strength that PSI's technical proposal demonstrated expertise with new technologies and toolsets and emerging technology migrations. See Ridoc Enter., Inc., B-292962.4, July 6, 2004, 2004 CPD ¶ 169 at 4; Network Eng'g, Inc., B-292996, Jan. 7, 2004, 2004 CPD ¶ 23 at 3.

ATS also contends that the use of new technologies and toolsets was not in fact a discriminator between the technical proposals of PSI and ATS, because ATS also offered the same features.

ATS's technical proposal, in both its technical capability and staffing and resources sections, stated, "We are very familiar with HUD's Enterprise Architecture (EA) strategies and desired technical environment. The ATS teaming partners have extensive experience in JAVA, J2EE, Oracle database, SUN Web Server, and SUN Java Server technologies." AR, Tab 8, ATS's Quotation, Vol. I, Technical Proposal, at 1-9, 4-14. While stating that it possessed extensive experience in various emerging technologies and toolsets, ATS's assertion was not supported by other aspects of its technical proposal. Specifically, none of the resumes of ATS's proposed key personnel demonstrated strong technical skills in emerging technologies and toolsets.<sup>13</sup> Similarly, none of the resumes of ATS's proposed key personnel (or any other aspect of the vendor's technical proposal) demonstrated expertise with the migration of older architectures to the specific emerging technologies that HUD contemplated here.<sup>14</sup> As a result, we find the TET's determination that only PSI's

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<sup>13</sup> We note that the resume of ATS's proposed business requirements analyst referenced Oracle among the many listed skills, but without identifying what level of experience existed. AR, Tab 8, ATS's Quotation, Vol. I, Technical Proposal, at 4-18. Likewise, the resumes of ATS's proposed information technology team lead and senior software engineer referenced Java among the listed skills, but again without identifying any level of experience. Id. at 4-21, 4-27. The fact that ATS's GSA contract mentions Oracle databases also does not demonstrate actual expertise. Id., Vol. III, Price Proposal, GSA Contract, at 7.

<sup>14</sup> ATS also alleges that the contracting officer here was fully aware of ATS's experience with the migration of the HUD Real Estate Management System (REMS) to the agency's enterprise architecture, and that such information was simply "too close at hand" for the agency to ignore in the evaluation of ATS's technical proposal here. Protest, June 19, 2006, at 37. In certain circumstances we have determined that evaluators are prohibited from ignoring information of which they are

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technical proposal demonstrated expertise with new technologies and toolsets to be reasonable.

ATS argues that the emphasis placed by HUD on PSI's proposed use of new technologies and toolsets in the agency's price/technical tradeoff determination was unreasonable. The protester argues that, generally, PSI's technical proposal did not describe how it would apply these new technologies and toolsets to its efforts on the TRACS system. Additionally, ATS contends that HUD's reliance on this aspect of PSI's technical proposal is unreasonable given that any migration of TRACS to emerging technologies would be performed under a separately-negotiated future task order (i.e., that PSI did not propose to employ these new technologies and toolsets as part of its work effort under the fixed-price task order here). We find these allegations without merit.

As discussed above, the record establishes that the TET reasonably determined that PSI's technical proposal demonstrated expertise with new technologies and toolsets, and provided detail about how such experience would support HUD's future enhancement and development efforts. AR, Tab 25, Revised TET Report, at 110, 112. Further, while the TRACS future development enhancements were to be separately negotiated, and were not part of the fixed-price task order for operational support and corrective maintenance services, the RFQ established that the agency would consider vendors' ability to support future development efforts in its award decision here. Quite simply, the fact that PSI's expertise with emerging technologies and toolsets would generally not be part of the awardee's efforts under the fixed-price task order did not render the agency's evaluation inconsistent with the stated evaluation criteria. ATS essentially argues that HUD placed too much weight on this aspect of PSI's technical proposal. Again, in our view, ATS has offered little more than mere disagreement with the agency's judgment about the proper amount of weight or emphasis to be placed on the enhancements in PSI's technical proposal, which does not render the agency's evaluation unreasonable. The OMO Group, Inc., supra, at 8.

#### Staffing and Resources Evaluation

ATS argues that the agency's evaluation of vendors' technical proposals with regard to the staffing and resources factor was unreasonable. Specifically, ATS contends

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personally aware, even if that information is not within the offeror's proposal. See GTS Duratek, Inc., B-280511.2, B-280511.3, Oct. 19, 1998, 98-2 CPD ¶ 130 at 14; International Bus. Sys., Inc., B-275554, Mar. 3, 1997, 97-1 CPD ¶ 114 at 5. Even assuming it is appropriate to apply this principle here, ATS has failed to establish that its work on REMS involved the same new technologies and toolsets that HUD credited to PSI here.

that HUD erroneously determined that PSI's technical proposal was superior to that of ATS with regard to Advantage Gen expertise when the facts in the record actually indicated the opposite to be true. The protester argues that because HUD chose to elevate the importance of vendors' Advantage Gen experience in its source selection decision, and was factually mistaken about which vendor here actually had greater Advantage Gen expertise, the agency's determination that PSI's quotation represented the best value to the government was improper.

The RFQ required vendors to provide information about their proposed staffing and resources regarding skill levels, expertise, and years of experience. RFQ amend. 1, Revised Proposal Instructions, at 4-5. The solicitation also identified five key positions (project manager, business requirements analyst, information technology team lead, database administrator, and senior software engineer) for which vendors were to submit resumes, demonstrating, among other things, knowledge of information engineering/information engineering facility (IE/IEF) CASE Tools such as Advantage Gen for analysis. *Id.* at 5-6. The RFQ also stated, as part of the staffing and resources evaluation factor, that vendors' technical proposals were to demonstrate that the skill levels, expertise, and experience of proposed key personnel were adequate to perform the work required by the PWS. *Id.*, Revised Evaluation Factors, at 2.

ATS's technical proposal included resumes for its five proposed key personnel. Each resume included a chart that stated, "Demonstrated knowledge of IE/IEF CASE Tools such as Advantage Gen for analysis," and had a corresponding number of years experience. For example, the resume of ATS's project manager represented that the "Demonstrated knowledge of IE/IEF CASE Tools such as Advantage Gen for analysis" was 11 years' experience.<sup>15</sup> AR, Tab 8, ATS's Quotation, Vol. 1, Technical Proposal, at 4-15.

The TET rated both ATS's and PSI's quotations as excellent under the staffing and resources evaluation factor; each vendor was found to have five strengths and no weaknesses. In its recommendation to the SSA, the TET also stated, "With regard to Staffing and Resources, [PSI] proposed key staffs . . . have stronger credentials than ATS's proposed key staff, even though both received a rating of Excellent. [PSI]'s proposed key staff have significant expertise and experience in Advantage:Gen which is one of the core toolsets supporting the mainframe architecture for TRACS." *Id.*, Tab 25, Revised TET Report, at 112. The SSA agreed with the TET that while ATS and PSI both offered excellent support personnel, the resumes for PSI's proposed key staff were stronger in the area of Advantage Gen expertise. *Id.*, Tab 26, Source Selection Decision, May 25, 2006, at 2.

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<sup>15</sup> Similar charts existed as part of the resumes of ATS's other key personnel, indicating experience of 7, 12, 12, and 13 years, respectively.

ATS contends that, as reflected in the resumes of its key personnel, ATS has an average of 11 years of Advantage Gen expertise, while the resumes of PSI's key personnel evidenced only an average of 7.67 years of Advantage Gen expertise.<sup>16</sup> The agency does not challenge ATS's calculations. Rather, the agency argues that Advantage Gen is a commonly used software technology, that Advantage Gen expertise thus is not limited to incumbent ATS employees who have worked on TRACS, and that, based upon the expertise as demonstrated in the vendor's resumes, the TET's determination that PSI's proposed key personnel were highly experienced with Advantage Gen was reasonable. AR, July 20, 2006, at 17.

While the resumes of ATS's proposed key personnel set forth each individual's knowledge of IE/IEF CASE Tools--such as Advantage Gen--generally, another section of ATS's technical proposal set forth the vendor's experience with Advantage Gen specifically, and indicated an average of 6 years' experience. Within its technical capability plan, ATS set forth the total combined experience with TRACS and related interface systems of its five proposed key personnel. AR, Tab 8, ATS's Quotation, Vol. I, Technical Proposal, at 1-7. Additionally, ATS provided a chart setting forth its combined experience with various individual TRACS technologies. Here ATS indicated that its team possessed 30 years' combined experience with Advantage Gen, or an average of 6 years' experience for each of its five proposed key personnel.<sup>17</sup> Id. By contrast, as set forth above, ATS argues that PSI's proposed key personnel possessed an average of 7.67 years of Advantage Gen experience. Therefore, even assuming that ATS's calculations of PSI's expertise are valid, the protester has failed to demonstrate that it possessed greater Advantage Gen experience here or that the agency's conclusions regarding vendors' relative experience were unreasonable.

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<sup>16</sup> In some instances the resumes of PSI's proposed key personnel did not explicitly set forth years of Advantage Gen expertise and, thus, the protester's figures are the result of attempting to "glean" this information from the professional experience narratives included within the resumes. Protest, June 19, 2006, at 39-40. In other instances ATS did not accept the "bare assertions" contained within the resumes of PSI's proposed key personnel, and instead substituted the average amount of Advantage Gen experience, computed from those PSI proposed employees whose degree of expertise ATS believed it could reliably estimate. Id. at 40.

<sup>17</sup> For purposes of the computation here we assume that ATS's use of the term "ATS Team" refers to only its five proposed key personnel and not all proposed TRACS team members (in which case the average Advantage Gen expertise would be less). ATS's oral presentation also represented that its team possessed a combined total of 30 years of Advantage Gen experience. AR, Tab 9, ATS's Oral Presentation, at 37.

### PSI Staffing Level Evaluation

Finally, ATS argues that HUD's award determination was based on mistaken conclusions regarding PSI's proposed level of effort. The protester contends that while each quotation contained information regarding the vendor's proposed labor categories and labor hours, the information was not sufficient to provide the agency with the basis for any meaningful conclusions regarding the vendor's understanding of the PWS work requirements. Nevertheless, ATS argues, the agency concluded that PSI's proposed labor hours indicated the vendor's significant understanding of the TRACS requirements, and relied on this irrational determination when concluding that PSI's higher-priced, higher technically rated quotation represented the best value to the government.

As set forth above, the RFQ included a PWS which contained a narrative description of all operational support and corrective maintenance service requirements for the TRACS project. Additionally, the PWS provided vendors with HUD's historic, level-of-effort information about each task.<sup>18</sup> For example, with regard to Database Administration, the PWS stated that the task occurred 250 times per year at an average of 4 hours per occurrence.<sup>19</sup> PWS at 5-6. Nonetheless, the RFQ contemplated the award of a fixed-price BPA, and the agency acknowledged that what it was procuring here was not a specified level of effort but a vendor's contractual commitment to successfully perform all TRACS PWS requirements (regardless of the actual effort required) for a fixed price. Hearing Transcript at 16-17.

The RFQ contained several instructions regarding the staffing/level of effort information that vendors were to submit. Specifically, the solicitation stated that vendors' price proposals were to identify their proposed FSS-contract labor categories, corresponding labor rates (including any discounts), and total number of hours proposed by labor category for each of the two contract line items (*i.e.*, all operational support tasks, all corrective maintenance tasks).<sup>20</sup> RFQ amend. 1, Revised Proposal Instructions, at 9. Also, the staffing and resources evaluation factor required vendors to identify those labor categories that would be assigned to perform each of the tasks defined in the PWS and sample task order. RFQ amend. 1,

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<sup>18</sup> The prior TRACS contract had been performed as a time-and-materials effort.

<sup>19</sup> The PWS did not, however, set forth the number of hours by labor category for each PWS task.

<sup>20</sup> The agency also informed vendors that their price proposals would be "closely scrutinized" to evaluate the methods used for calculating costs and the reasonableness with which those costs were assigned to PWS requirements. RFQ, Questions and Responses, at 11.

Revised Evaluation Factors, at 2-3. Vendors' draft project plans (under the project management factor) were also to include, among other things, the resources (i.e., skill levels, facilities, computer resources) the vendors planned to employ. Id., Revised Proposal Instructions, at 2.

PSI's price proposal identified its proposed labor categories, labor rates, and total labor hours for each contract line item, AR, Tab 10, PSI's Quotation, Vol. II, Price Proposal, at 6-15; the vendor's technical proposal did not identify labor categories by PWS task as the RFQ required. See id., Vol. 1, Technical Proposal, at 4-1. However, neither PSI's nor ATS's quotation identified the vendor's total number of hours by PWS task, the number of hours by labor category by PWS task, or the price by PWS task, as such information was not required by the solicitation.

After evaluating quotations under the stated evaluation factors, the TET prepared its conclusions regarding vendors' relative technical merit. The agency evaluators found that PSI was the highest technically rated vendor, based on the determination that PSI had excellent past performance and that all of PSI's proposed key staff brought strengths--ranging from in-depth technical expertise with TRACS software and toolsets, to demonstrated expertise with the migration of older, less efficient architectures to emerging, more efficient technologies--that would improve TRACS' reliability and performance. The TET also noted that PSI's technical proposal had clearly and concisely explained the vendor's strategy and approach for the phased migration of TRACS to the architectures proposed by the HUD enterprise architecture office. Further, PSI had proposed many "value-added" features, such as the automated project management tool Rational ClearQuest and a web portal, that were currently not available to the TRACS project. The TET also found that PSI's draft project plan for the sample task order was comprehensive and reasonable, and provided evidence of a strong development methodology. Id., Tab 25, Revised TET Report, at 110. Also as part of its conclusion here the TET stated, "Although the PSI Team's proposed price is not the lowest bid, they offered the highest number of hours of all bidders. This indicates a significant understanding of the amount of time and effort that is required to successfully support the TRACS project." Id.

The TET then prepared an overall best value analysis of vendors' quotations, concluding that PSI's quotation offered the best value to HUD. The TET based this determination on the overall quality of PSI's quotation, especially under the technical, project management, and key personnel factors ("They provide HUD a complete range of technical skills and number of key personnel with several years experience designing, implementing, enhancing, and managing systems similar to the TRACS system"). Id. at 111. The TET also stated, "Although [PSI's] price proposal is the second highest, the proposal is comprehensive in terms of providing a more than adequate [level of effort] and plan for operations, maintenance, and modernization for the TRACS project." Id. The TET then conducted a head-to-head comparison of

the quotations of PSI and ATS, in which PSI's technical advantages in technical capability, project management, and key staff were discussed.<sup>21</sup> Id. at 112.

In the subsequent source selection decision, the SSA concluded that PSI's proposal represented the best technical solution and demonstrated numerous strengths. Specifically, the SSA found that PSI had distinguished itself in its ability to operate, maintain, develop, and manage the TRACS application as well as its strong past performance, particularly in projects similar to the TRACS project. The SSA also stated:

While PSI's projected costs were higher than . . . [those] of the other vendors, it is clearly worth it to the Government to pay such additional costs in order to obtain the technical enhancements that it offers. PSI's strengths in terms of new technologies and toolsets and advanced project management tools are benefits to HUD that offset the additional cost.

Id., Tab 26, Source Selection Decision, May 25, 2006, at 1. The SSA then conducted a head-to-head comparison of PSI's and ATS's quotations. Here the SSA identified the various strengths in technical capability, project management, past performance, and staffing and resources that the SSA believed justified the \$216,920 price premium associated with PSI's quotation. Id. at 2. In a concluding paragraph the SSA then stated:

[PSI] clearly prepared the best technical approach, and was . . . rated "Excellent" overall. The company proposed a staffing mix of time and resources and technical expertise in emerging technology toolsets that will best benefit the Government. The PSI Team was able to demonstrate a low risk of failure with a high probability for success over the next five years. Therefore, it is my determination that [PSI],

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<sup>21</sup> The TET also commented:

In light of reduced budgets for existing and new projects, the Government must consider what results will be achieved based on the level of effort required for future initiatives. Future task orders will be issued either Firm Fixed-Price or Fixed-Price [level of effort] . . . . Assuming the labor rates remain the same for both maintenance and development efforts, the Government will receive a higher rate of return with [PSI] because of the lower average hourly rate that will provide a higher probability of successful completion of the required tasks.

Id. at 112.

based on technical merit and price, represents the best value to the Government and should be awarded the contract.

Id. at 4.

In our view, the staffing information contained in vendors' quotations was simply not sufficient from which to formulate meaningful conclusions here. As set forth above, the RFQ required vendors to identify labor categories, labor rates, and total number of hours proposed by labor category for each of the two contract line items, as well as labor categories by PWS task. However, the solicitation did not require, and vendors did not provide, information about the total number of hours by PWS task, the number of hours by labor category by PWS task, or the price by PWS task.<sup>22</sup> Thus, HUD's ability to analyze a vendor's planned staffing mix (i.e., the quality and quantity of the labor proposed) could only be done at the overall contract line item, and not the specific PWS task, level.

Notwithstanding the lack of information about vendors' staffing plans, the TET reached various conclusions about PSI's proposed staffing levels. For example, the TET concluded that the quantity of PSI's proposed staffing ("they offered the highest number of hours of all the bidders") indicated a significant understanding of the effort required to successfully perform the TRACS work requirements, without also taking into account the quality of the staffing that the vendor had proposed. The fact that a vendor proposes a high number of hours does not indicate that the vendor understands the work, since the vendor may have also proposed under-qualified, or unqualified, labor categories for the work requirements. Similarly, a vendor who proposes a lower number of hours, but of higher quality labor, may have an equal or better understanding of a solicitation's work requirements.<sup>23</sup> Additionally, while the

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<sup>22</sup> To the extent that ATS argues that HUD did not "closely scrutinize" vendors' quotations because the solicitation failed to require vendors to submit sufficient staffing information necessary to perform the requisite close scrutiny, we find that ATS essentially argues that the solicitation was defective, in which case its protest of such is untimely. See 4 C.F.R. § 21.2(a)(1) (2006).

<sup>23</sup> Similarly, the TET's conclusion that PSI's lower average labor rate will be of value to the agency for future, fixed-priced, level-of-effort task orders is also based on mistaken assumptions. First, the TET's determination of average hourly labor rates was based on vendors' total prices and total proposed hours (as opposed to the average price for one hour of each labor category proposed). AR, Tab 25, Revised TET Report, at 99. Since vendors proposed different numbers of hours for the various labor categories, this method of comparison does not permit the agency to validly ascertain whether PSI was actually less expensive than ATS for any common labor category. The TET's analysis also implicitly assumes that for future fixed-priced, level-of-effort task orders, vendors would utilize common labor categories and staffing levels—only then would the lower average hourly rate arguably be

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TET knew what labor categories PSI believed appropriate for each contract line item, PSI's quotation did not identify labor categories or estimated hours by PWS task. The TET's conclusions that PSI's level of effort and/or staffing mix indicated significant understanding of the TRACS requirements thus were unsupported by the information the agency had before it.

While the record reflects that the TET's conclusions regarding PSI's staffing levels were unsupported, such conclusions were not material to the agency's source selection determination. See ESCO, Inc., B-225565, Apr. 29, 1987, 87-1 CPD ¶ 450 at 6; see also Allied Tech. Group, Inc., B-271302, B-271302.2, July 4, 1996, 96-2 CPD ¶ 4 at 4 n.3. As set forth above, the TET's conclusions that PSI's quotation was both the highest technically rated and overall best value were based on the technical enhancements and advantages that the vendor was found to offer. Specifically, the TET repeatedly found it was PSI's strengths in the technical, project management, and key personnel factors (i.e., "they provide HUD a complete range of technical skills and number of key personnel with several years experience designing, implementing, enhancing, and managing systems similar to the TRACS system") that offset PSI's higher price. The TET's head-to-head comparison of PSI's and ATS's quotations also focused on PSI's advantages in technical capability, project management, and key staff.

More importantly, the SSA's determinations that PSI's quotation represented the best technical solution and overall best value to the agency were based solely on the vendor's technical enhancements (e.g., expertise with new technologies and toolsets, advanced project management tools) and not staffing levels. In this regard, when conducting a head-to-head comparison of ATS's and PSI's quotations, the SSA considered only PSI's advantages under the technical capability, project management, past performance, and staffing and resources factors as the rationale for what justified PSI's price premium; there is no mention of vendors' staffing levels in the SSA's analysis here.<sup>24</sup> Id. at 2. It is quite clear that the SSA's best value tradeoff focused only on PSI's technical advantages as compared to ATS's lower price, and that PSI's staffing was not a material aspect of the agency's decision here. In sum, in our view the record reflects that the conclusions reached by the agency regarding PSI's proposed level of effort were simply not material to the agency's

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determinative of price. Further, the TET offers no explanation for its assertion that a lower average hourly rate will provide a higher probability of success.

<sup>24</sup> In fact, the SSA's analysis contains only one phrase that even touches on the issue, a reference in the concluding paragraph to PSI's "staffing mix of time and resources and technical expertise." AR, Tab 26, Source Selection Decision, May 25, 2006, at 4. We see no basis to read this oblique reference as incorporating the TET's conclusions regarding PSI's staffing levels.



source selection decision and thus do not provide a basis to question the agency's decision that PSI's quotation represented the best value to the government.

The protest is denied.

Gary L. Kepplinger  
General Counsel