



Decision

Matter of: KoHealth Technologies, LLC

File: B-423440

Date: July 10, 2025

Dr. Ajay Kohli, MD, KoHealthTechnologies, LLC, for the protester.
Kelly E. Buroker, Esq., Kevin P. Connelly, Esq., and Michael P. Ols, Esq., Vedder Price, P.C., for ICF Incorporated, LLC, the intervenor.
Jon J. Gottschalk, Esq., and Kevin Misener, Esq., Department of Health and Human Services, for the agency.
Michael Willems, Esq., Jesse Jian Adelman, and Evan D. Wesser, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's establishment of a noncompetitive logical follow-on task order was reasonable pursuant to the authority of Federal Acquisition Regulation subsection 8.405-6(a)(1)(i)(C).

DECISION

KoHealth Technologies, LLC, a small business of Richardson, Texas, protests a proposed sole-source task order extension to ICF Incorporated, LLC, of Reston, Virginia, by the Department of Health and Human Services, National Institutes of Health, National Library of Medicine, for information technology modernization services related to the ClinicalTrials.gov website. The protester alleges that the agency's justification for the sole-source task order is inadequate in various ways.

We deny the protest.

BACKGROUND

In 2020, the agency initially issued a competitively awarded task order for operation, maintenance, and modernization of ClinicalTrials.gov to ICF under the General Services Administration's Federal Supply Schedule contract No. GS00F010CA. Contracting Officer's Statement (COS) at 1. The period of performance for that contract ran from September 29, 2020, to September 28, 2023. *Id.* In 2023 the agency issued a sole-source follow-on task order for continuation of the modernization effort with a 12-

month period of performance and a single 6-month option that would collectively extend performance to March 28, 2025. *Id.* Relevant to this protest, while this follow-on task order included Federal Acquisition Regulation (FAR) clause 52.217-8, Option to Extend Services, the agency did not evaluate pricing for that option. *Id.*

During the pendency of the follow-on task order the agency began conducting acquisition planning and market research to compete a follow-on procurement. COS at 2. Specifically, on August 27, 2024, the agency published sources sought notices and ultimately received capability statements from 49 firms, including the protester. *Id.* The agency evaluated those capability statements and had additional communications with several firms, also including the protester. *Id.*

Ultimately, however, because the ClinicalTrials.gov modernization effort was in its final phases with anticipated completion by the end of fiscal year 2025, the agency concluded that transition to a new vendor would result in significant delay and additional costs. Agency Report (AR), Tab 4.3, Limited Source Justification at 2, 6-7. For example, the agency concluded, based on the responses to the sources sought notices, that a new vendor would require a 6 to 8-month transition period and the current modernization phase would be completed within 6 months. *Id.* For this and other reasons, the agency concluded that transitioning to a new vendor would result in delay of several time-sensitive deliverables, increased costs, and duplication of effort. *Id.*

While the agency continued with acquisition planning for the recompetition of the ongoing operation and maintenance of ClinicalTrials.gov, the agency concluded that it would need to exercise the option to extend services provided by FAR clause 52.217-8 for six months to complete the current modernization effort. AR, Tab 4.3, Limited Source Justification at 2-3. However, because the agency did not previously evaluate the pricing for the option to extend services, the exercise of that option is, in effect, a new procurement. Accordingly, the agency executed a limited sources justification relying on FAR subsection 8.405-6(a)(1)(i)(C), which provides that an agency may limit sources under a Federal Supply Schedule (FSS) contract when:

In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order provided that the original order was placed in accordance with the applicable Federal Supply Schedule ordering procedures. The original order or BPA [Blanket Purchase Agreement] must not have been previously issued under sole-source or limited-sources procedures.

The protester filed an agency-level protest on March 7, 2025, arguing that the non-competitive extension of services was inappropriate because of alleged technical deficiencies in ICF's approach and alleged schedule failures in ICF's incumbent performance. The agency denied this protest on March 26, and this protest followed.

DISCUSSION

The protester alleges that the agency's limited sources justification is inadequate in several respects. The protester principally alleges that the agency's "serial sole-source bridge [or interim] contracts" are improper because the agency has had ample opportunity to plan a competitive recompete, and because "program failure" is an insufficient justification for a sole-source award. Protest at 1. In this regard, the protester further contends that the agency's market research was inadequate and failed to consider the strengths of KoHealth's capabilities statement. *Id.* at 1-2. Likewise, the protester contends that the agency's conclusion that a new vendor could not transition in less than six months was irrational. *Id.* at 2.¹

¹ The protester advances other collateral arguments not addressed in this decision. We have reviewed these arguments and conclude that they provide no basis to sustain the protest. For example, the protester argues in its comments on the agency report, for the first time, that the agency's limited source justification was inappropriate because the FAR subsection relied on by the agency, FAR 8.405-6(a)(1)(i)(C), requires that it may only be used to justify a follow on order when the original order was not previously issued under sole-source or limited-sources procedures. Protester's Comments at 2. The protester argues that, while the original order in this case was competitively awarded, the agency has already issued one non-competitive extension to that order, so the current order is, in effect, a follow on from a non-competitively awarded order. *Id.* For the reasons outlined below, we do not reach the merits of this argument because it is untimely.

Relevant here, the agency cited this FAR subsection in its limited sources justification, which was published on March 26, 2025. See AR, Tab 4.3, Limited Source Justification at 4. Indeed, this FAR subsection was the sole provision identified as "[a]cquisition authority" in the limited sources justification and was also quoted in full. *Id.* Additionally, also on March 26, the agency specifically cited this FAR subsection in its denial of the protester's agency-level protest. AR, Tab 5.2, Agency-Level Protest Response at 3. Accordingly, the protester was on notice that the agency was relying on FAR subsection 8.405-6(a)(1)(i)(C) to justify its limited source justification no later than March 26. However, in its initial protest, the protester did not contend that this FAR subsection was inapplicable or inappropriate, and indeed did not cite or engage with the subsection. While the initial protest did contend that the agency's "serial sole-source" orders were impermissible, the protest only argued that point on the basis of a lack of advanced planning and alleged program failure. See Protest at 1. While the protester now contends that it could not have known, prior to the agency report, that FAR subsection 8.405-6(a)(1)(i)(C) was central to the agency's limited sources justification, that representation is inconsistent with the record.

Our decisions explain that the piecemeal presentation of evidence, information, or analysis supporting allegations previously made is prohibited. *Raytheon Blackbird*
(continued...)

In response, the agency argues that our Office has routinely concluded that a limited sources justification under the FSS is reasonably made in the interest of economy and efficiency when it is based on documented concerns regarding disruption of service, duplication of effort, transition delays, or increased costs. Memorandum of Law (MOL) at 4 (*citing Harmonia Holdings Grp., LLC*, B-417465, July 16, 2019, 2019 CPD ¶ 257 at 10). In this regard, the agency notes that its limited sources justification documents concerns related to all of those factors. MOL at 4-5.

Similarly, concerning its market research, the agency notes that FAR subsection 8.405-6(a)(1)(i)(C) does not require an agency to exhaust all competitive options or conduct a detailed comparative analysis. *Id.* at 5-6. Rather, the FAR simply requires the agency to document a description of market research conducted among schedule holders and the results of that research or explain why market research could not be conducted. See FAR 8.405-6(c)(2)(vi). Here, the agency contends that it included such a statement in its limited source justification and exceeded these requirements by conducting market research among both schedule holders and on the open market. MOL at 5.

The FAR is clear that orders placed under the FSS are exempt from the competition requirements of FAR part 6. FAR 8.405-6. Nevertheless, an agency must justify its decision to issue an order on a noncompetitive basis. *Id.* Our Office will review an agency's use of a limited sources justification under FAR subpart 8.4, including a decision to issue a noncompetitive logical follow-on order pursuant to FAR subsection 8.405-6(a)(1)(i)(C), for reasonableness. *Harmonia Holdings Grp., LLC, supra*, at 12; *Federal Working Grp., supra* at 4; *XTec, Inc.*, B-405505, Nov. 8, 2011, 2011 CPD ¶ 249 at 5. Upon review of the record, we conclude that the agency's decision to issue the award to ICF under these circumstances was reasonable.

The agency's position is simple and well-documented in the record. The agency concluded that changing contractors in the middle of an extremely complex project with impending deadlines poses unnecessary risk to both project schedule and cost. Instead, permitting the incumbent, which is already immersed in the project and which possesses the requisite institutional knowledge to continue the work it began five years ago would conserve time and other resources, thus making the award to the incumbent an economical and efficient choice. See AR, Tab 4.3, Limited Source Justification

Techs., Inc., B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 4. Rather, protesters are obligated to set forth in their protest filings all of the known legal and factual grounds supporting their allegations because piecemeal presentation of evidence unnecessarily delays the procurement process and our ability to resolve protests within the 100-day period statutorily mandated by the Competition in Contracting Act. *Battelle Memorial Inst.*, B-418047.5, B-418047.6, Nov. 18, 2020, 2020 CPD ¶ 369 at 9; 31 U.S.C. § 3554(a)(1). Because the protester knew or reasonably should have known that the agency relied on FAR subsection 8.405-6(a)(1)(i)(C) when it filed its initial protest, but only advanced arguments challenging the use of that subsection in its comments on the agency report, more than a month later, we dismiss this argument as an untimely piecemeal presentation of protest arguments.

at 2-7. We have no basis to find the agency's considered judgments in this regard unreasonable.

We have consistently stated that an agency's limited sources justification is reasonably made in the interest of economy and efficiency where it is based upon documented concerns regarding disruption of service, duplication of efforts, transition delays, and/or increased costs. *Harmonia Holdings Grp., LLC, supra*, at 12-13. In this case, the agency credibly documented concerns regarding all of these factors in its limited source justification. For example, the agency notes there is an ongoing migration of users from the previous system to the new system developed by ICF with users currently using both separate systems. AR, Tab 4.3, Limited Source Justification at 4-5. The agency reasonably concluded that transitioning to a new vendor during this migration would result in substantial delays, duplication of effort, inefficiency, and increased costs. *Id.* at 6-7. The agency also explained that the modernization effort is in its final phase, which the agency anticipates will be completed within the 6-month extension contemplated by the limited sources justification. *Id.*

Likewise, while the protester alleges that the agency conducted inadequate market research, the record does not support that argument. Rather, the record confirms that the agency solicited and reviewed capabilities statements to determine if it could potentially make a transition to another vendor. See, e.g., AR, Tab 3.5, Summary of Capability Statements Review. Moreover, the agency documented its conclusions in its limited source justification as required by FAR 8.405-6. AR, Tab 4.3, Limited Sources Justification at 8-11. For example, the agency explained that its market research identified several vendors who could potentially meet the agency's long-term needs for operation and maintenance as part of a future competition, but the agency also concluded that no vendor other than ICF would be able to meet the agency's near-term requirements concerning the completion of the modernization effort primarily because of the time required for a new vendor to transition in. *Id.* The protester clearly disagrees with the agency's conclusion but provides no substantive evidence to suggest that the agency's conclusions regarding the inefficiencies that would result from a near term transition are incorrect. Moreover, while the protester would prefer that the agency had conducted a more searching comparison or analysis of its capabilities statement, FAR subsection 8.405-6(a)(1)(i)(C) does not impose such a burden on an agency.

To the contrary, a follow-on award is permissible under this authority if it is in the interest of economy and efficiency, despite the existence of alternative acquisition strategies. See *Harmonia Holdings Grp., LLC, supra*, at 14 n.13. In this regard, there is no requirement that an agency consider competitive acquisition strategies prior to issuing a logical follow-on order. Nor is there a requirement that an agency consider whether the logical follow-on order is the most economical or efficient acquisition strategy. *Id.* Thus, the question is not whether another strategy or another source could satisfy the agency's needs, but whether the agency would likely conserve time and other resources by issuing the follow-on order. *Id.* In this case, the agency's

conclusions that it would save time and money by issuing this 6-month extension are both reasonable and well-documented in the record.²

The protest is denied.

Edda Emmanuelli Perez
General Counsel

² In its initial protest the protester also argues that the risks of duplicative effort and schedule delays that the agency is currently seeking to mitigate are solely the result of the incumbent's failure to deliver critical documentation, which represents a failure in acquisition planning on the agency's part. Protest at 2-3. In response, the agency explains that the prohibition on conducting a sole-source procurement due to a lack of advance planning is found in FAR section 6.301(c)(1), but orders under the FSS are specifically exempt from the requirements of FAR part 6, and a limited source justification for an FSS order must only satisfy the requirements of FAR section 8.405-6. MOL at 6 (*citing* FAR 8.405-6). Of note, FAR section 8.405-6 does not include a prohibition on limited source justifications resulting from a lack of advance planning, and the agency contends that, under similar circumstances, our Office has dismissed challenges to agency acquisition planning. *Id.* (*citing Federal Working Grp.*, B-416464, B-416464.2, Sept. 19, 2018, 2018 CPD ¶ 324 at 5-6).

In response, the protester clarifies in its comments that the agency mischaracterizes its protest grounds and that it is not challenging "procedural deficiencies in planning." Protester's Comments at 5. Rather the protester argues that it is challenging the "consequences" of the agency's alleged planning failures. *Id.* Specifically, the protester recast and reiterates its argument that the agency's use of FAR section 8.405-6 was unsupported because this task order was not a follow on to a competitively awarded task order, and therefore the agency was required to satisfy the requirements of FAR part 6, which the agency did not do. *Id.* However, as discussed above, we dismissed the protester's arguments that the task order was not a follow-on task order under FAR subsection 8.405-6(a)(1)(i)(C)) as an untimely piecemeal presentation and found the agency's use of FAR subsection 8.405-6(a)(1)(i)(C) to be otherwise reasonable. Accordingly, this reiterated but substantially similar argument is also dismissed.