

Office of Dispute Resolution for Acquisition
Federal Aviation Administration
Washington, D.C.

FINDINGS AND RECOMMENDATIONS

Matter: **Protest of CDW Government LLC**
 Pursuant to Solicitation DTFAWA-10-R-00024

Docket No.: **11-ODRA-00575**

Appearances:

For the Protester,
CDW Government LLC:

David M. Nadler, Esq. of
Dickstein Shapiro, LLC

For the FAA Product Team:

Kristin Kane, Esq.

For the Intervener,
GTSI Corporation:

Jonathan S. Aronie, Esq. of
Sheppard, Mullin, Richter and Hampton, LLP

For the Intervener,
Iron Bow Technologies, LLC:

C. Joel Van Over, Esq.
Evan Wesser, Esq. of
Pillsbury Winthrop Shaw Pittman LLP

I. Introduction

On May 10, 2011, CDW Government LLC (“CDW-G”) filed a bid protest (“Protest”) with the Federal Aviation Administration (“FAA”) Office of Dispute Resolution for Acquisition (“ODRA”). CDW-G challenges the award of an indefinite delivery, indefinite quantity (“IDIQ”) contract (“Contract”) to GTSI Corporation (“GTSI”) by the FAA Product Team (“Product Team”). The award was one of two made pursuant to Solicitation DTFAWA-09-R-00024 (“Solicitation”). *Protest* at 1. The Contract is for servers, storage systems, network devices, and related services as part of the Strategic

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Sourcing for the Acquisition of Various Equipment and Supplies (“SAVES”) Program. *Agency Response* (“AR”) at 3; Tab 1. CDW-G asserts that: (1) the Solicitation’s evaluation criteria, which gave more weight to price than to technical, was unreasonable; (2) the original price evaluation is not applicable; (3) technical capability should be ranked higher than price; (4) since CDW-G received the highest technical score, it is “most deserving of an award”; and (5) it is “CDW-G’s right to receive an award.” *Protest* at 4-6.

On May 27, 2011, the Product Team filed a Motion to Dismiss asserting that CDW-G did not file its Protest in accordance with the timelines established in the ODRA Procedural Regulation, 14 C.F.R. §17.15, and, on June 3, 2011, intervenor GTSI filed its own Motion to Dismiss for lack of timeliness. The ODRA found that CDW-G’s Protest of the award to GTSI was timely filed in accordance with the ODRA Procedural Regulations, 14 C.F.R. §17.15, only to the extent that it challenges the best value determination that resulted in an award to GTSI based on the stated evaluation criteria. *Protest of CDW Government LLC*, 11-ODRA-00575 (Decision of Summary Dismissal Motions, July 20, 2011) (“*July 20, 2011 Decision*”).

For the reasons set forth below, the ODRA finds that the Product Team’s best value determination, based on the stated evaluation criteria in the Solicitation, to award a contract to GTSI has a rational basis and is not otherwise arbitrary or capricious. Therefore, the ODRA recommends that the Protest be denied.

II. Findings of Fact

A. Initial Award to Iron Bow and GTSI Protest

1. The Product Team issued the Solicitation for the SAVES Program on May 10, 2010. The Solicitation set July 8, 2010 as the date for receipt of proposals. *Protest*, Exhibit 2 at 1.

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2. The Statement of Work describes the objectives of the SAVES Program as follows:

One of the major objectives in the Federal Aviation Administration's (FAA) Flight Plan is to control costs while delivering quality customer service. To help achieve the goal of controlling costs the FAA embarked on an important Agency-wide initiative in 2006 called the Strategic Sourcing for the Acquisition of Various Equipment and Supplies (SAVES) Program. The program includes all FAA Lines of Business, Staff Offices, Regions, and Centers. Some of the SAVES contracts and other enterprise contracts are nearing completion of their period of performance and new contracts are required to continue support of the Agency's strategic sourcing goals and objectives.

Protest, Exhibit 4 at C-2.

3. The scope of the Contract is described as follows:

This SAVES contract will be a DOT-wide strategic sourcing contract managed by the FAA. SAVES contracts are mandatory use contracts for the FAA's IT community under the Acquisition Management System (AMS 3.8.6) and may optionally be used by the FAA's National Airspace System (NAS) community.

Protest, Exhibit 4 at C-2.

4. The public announcement of the first award under the Solicitation to Iron Bow Technologies, LLC ("Iron Bow") was posted on the FAA Contracting Opportunities website on December 1, 2010. AR Tab 10.
5. On December 29, 2010, GTSI filed a protest of the award to Iron Bow in the Office of Dispute Resolution for Acquisition ("ODRA") and it was docketed as 10-ODRA-00563.

B. Corrective Action, Withdrawal of GTSI Protest, and Award to GTSI

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6. As a result of alternative dispute resolution (“ADR”), the Product Team undertook unilateral, voluntary corrective action with respect to the procurement. *AR* Tab 17.

7. In a letter to the ODRA, dated February 7, 2011, the Product Team stated:

[T]he Product Team has determined that it is in the best interest of the Agency to re-examine certain aspects of the evaluation of offers carried out in connection with this SIR. This corrective action will include new analysis and recommendation by the Source Selection Evaluation Board; reassessment at the Technical Evaluation consensus level; and a new SSO decision. The best value analysis will be conducted in accordance with the SIR and Evaluation Plan.

AR Tab 17 at 1.

8. In a letter to the ODRA, dated April 26, 2011, the Product Team submitted the results of the corrective action stating that “[t]he SSO determined that it is in the best interest of the Agency to select both Iron Bow and GTSI for award.” *AR* Tab 18.

9. In a letter to the ODRA, dated May 24, 2011, GTSI withdrew its protest. *AR* Tab 19.

10. The public announcement of the award under the Solicitation to GTSI was posted on the FAA Contracting Opportunities website on April 29, 2011. *AR* Tab 20.

11. On May 10, 2011, CDW-G filed the instant Protest. *Protest*.

C. Solicitation Terms

12. Section L.2.1 of the Solicitation identifying contract type, states, in relevant part:

The Federal Aviation Administration contemplates award, in accordance with its FAA Acquisition Management System (AMS), of *one or more* Indefinite Delivery / Indefinite Quantity (ID/IQ) *contracts* to purchase Information Technology (IT) hardware for the Headquarters, regional offices and field facilities. . .

Protest, Exhibit 40 at L-1 (emphasis added). The Solicitation also incorporated by reference AMS Clause 3.2.4-25, Single or Multiple Awards (April 1996). *Id.* AMS Clause 3.2.4-25 states:

The FAA may elect to award a single delivery order contract or task order contract or to award multiple delivery order contracts or task order contracts for the same or similar supplies or services to two or more sources.

The AMS prescription to the Clause instructs that it “[m]ust be used in SIRs for indefinite quantity contracts that may result in multiple contract awards.” Finally, Section M.1.2 of the Solicitation states that “[t]he FAA reserves the right to award one or more contracts, if it is in the best interest of the FAA.” *Protest*, Exhibit 43 at M-2.

13. Section M.1.1, Award Selection, provides:

. . . This source selection will be based on a best value trade-off approach. Accordingly, award will be made to the responsible and technically acceptable Offeror whose proposal provides the greatest overall value to the FAA. This best-value determination will be accomplished by comparing the value of the differences in the technical factors for competing offers, based on their strengths, weaknesses, and risks, with differences in their price offered to the FAA. In making this comparison, the FAA

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does not intend to make an award to an Offeror who proposes a significantly higher overall price to achieve slightly superior technical approach. Award will be made to the Offeror whose proposal is determined to represent the best value to the FAA.

Protest, Exhibit 24 at M-1.

14. Best value is further defined as being “based on the evaluation of the Offeror’s Business [and] Technical Management Proposal, Price Proposal, and Subcontracting plan.” *Id.* at M-1.

15. Section M.2, Evaluation for Award, also provides:

The rated technical evaluation criteria are slightly less important than price. As relative technical advantages and disadvantages become less distinct, a difference in price between proposals is of increased importance in determining the most advantageous proposal. Conversely, as differences in price become less distinct, differences in relative technical advantages and disadvantages among proposals are of increased importance in the determination.

Protest, Exhibit 24 at M-3 to M-4.

16. Section M.2 Evaluation Factors for Award provides:

M.2 EVALUATION FACTORS FOR AWARD

Evaluation of all Offerors will be made in accordance with the criteria outlined in this section. The proposals will be evaluated against the following factors/sub-factors:

NON PRICE FACTORS are as follows:

Factor 1 Management Approach

Sub-Factor 1 Customer Service

Sub-Factor 2 Teaming Strategy

Sub-Factor 3 License and Maintenance Tracking Tool

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Sub-Factor 4 Quality Assurance
Sub-Factor 5 Supply Chain Risk Management

Factor 2 Technical Approach
Sub-Factor 1 CONUS and OCONUS Delivery
Sub-Factor 2 Web Portal
Sub-Factor 3 Business Intelligence
Sub-Factor 4 Configuration Management

Factor 3 Relevant Experience / Past Performance
Sub-Factor 1 Relevant Past Performance
Sub-Factor 2 Contract Performance
The Subcontracting Plan will be evaluated separately as pass/fail. The Price Proposal will be evaluated separately and applied in the determination of best value.

The rated technical evaluation criteria are slightly less important than price. As relative technical advantages and disadvantages become less distinct, a difference in price between proposals is of increased importance in determining the most advantageous proposal. Conversely, as differences in price become less distinct, differences in relative technical advantages and disadvantages among proposals are of increased importance in the determination.

Protest, Exhibit 24 at M-3 to M-4.

17. Section M.3 Evaluation Process provides:

M.3 EVALUATION PROCESS

* * * *

7. Source Selection and Contract Award

The technical evaluation will be achieved through a determination and an analysis of strengths, weaknesses, and risks of each proposal. Technical risks will be included in the final evaluation of each factor and will not be evaluated as a separate factor. In the assessment of technical risk, the FAA evaluators will consider all available information.

The results of the technical evaluation and the computed price of each proposal will be provided to the Source Selection Official (SSO) to support the award decision.

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Protest, Exhibit 24 at M-4 to M-5.

18. Section M.3.1.1 of Volume I, Business and Technical Management Proposal, provides:

FACTOR 1 – MANAGEMENT APPROACH (35%)¹ –
The Offeror’s technical approach will be evaluated by assessing the likelihood that the Offeror’s proposed technical approach will meet the FAA’s requirements, including any associated risk of the Offeror’s non-performance in the technical approach.

The Sub-Factors for this Factor will be used to evaluate the degree to which the Offeror’s proposed approach demonstrates a clear understanding, meets all requirements and challenges of the requirement. The FAA will evaluate the Offeror’s response to the Sub-Factors identified below:

Sub-factor 1. Customer Service (C.5.12, C.5.13): Describe your customer service program. Include information on items such as

- requests for technical assistance,
- quote preparation,
- status of orders,
- delivery verification, etc.

(1 page maximum)

Sub-factor 2. Teaming Strategy. Your submission must describe an integrated, thoughtful, and effective approach that your company intends to employ during the contract period of performance. This teaming strategy reflects how your company will ensure compliance to the performance parameters outlined in the SOW Section C.5.18 through established procedures that necessitate the management of partner relationships. At a minimum the teaming strategy must address the following:

- The anticipated participants and any final agreements that may be utilized to conduct routine

¹ Factor 1 is titled Management Approach and describes the technical evaluation, while Factor 2 is titled Technical Approach and describes the management evaluation.

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interfaces, minimize disconnects, and maintain performance

- The duties, strengths, areas, and functions that the partner will play in performance of the contract
- Management processes and procedures that will benefit the contract (e.g., customer service, schedules, costs, reliability)

(3 page maximum)

Sub-factor 3. License and Maintenance Tracking Tool (C.5.22) The Offeror must provide a description of and how it supports the following activities associated with this requirement:

- viewing of products, service terms/levels, entitlements, coverage timeframes, expirations, uncovered assets, gaps in coverage;
- ability to manage multi-year contracts;
- reporting capabilities; and
- ability to export data for inclusion in Government tools and databases.

(2 page maximum)

Sub-factor 4. Quality Control (C.5.17): Describe a quality assurance procedure (e.g., checklists, audits, reviews) already in place for your company, its purpose, actions taken to ensure compliance and your performance measurements. If your company has ISO certification, please provide the date you were audited and found to be in compliance with the standard.

(1 page maximum)

Sub-factor 5. Supply Chain Risk Management (C.5.21): Describe how your company addresses supply chain risk management to ensure the Government's acquisition of safe and secure IT hardware and software. Supply chain risks include:

- natural hazards
- viruses
- data security
- demand variability
- supply fluctuations, etc.

(2 page maximum)

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FACTOR 2 – TECHNICAL APPROACH (30%) – The Offeror’s management approach will be evaluated to determine the extent to which the Offeror demonstrates that it has developed a strategy for the effective and efficient management of contract activities to successfully fulfill the requirements outlined in Section C. The FAA will evaluate the Offeror’s description of its existing resources, assets, and competencies that it proposes to use to satisfy the requirements outlined in Section C.

Sub-factor 1. CONUS and OCONUS Delivery: Provide information on how your company will acquire and deliver products to DOT locations worldwide (Section F). Include information on the following:

- package inspection
- emergency orders
- on-time delivery performance
- compliance with shipping instructions
- and confirmation of receipt.

(1 page maximum)

Sub-factor 2. Web Portal: Demonstrate your company’s capability for providing an Internet based Web portal (C.5.8) by providing a website address, guest logon name and password to a non-restricted custom website (i.e. beta site or available to any federal customers). At a minimum, the website should have the following capabilities:

- show sample products and prices
- provide informational documents and hyperlinks
- permit adding items to a shopping cart

(1 page maximum)

Sub-factor 3. Business Intelligence (C.5.6): What procedures and tools (reporting, analysis, forecasting) will be used by your company to help the Government to achieve greater efficiencies and taxpayer savings? Items for consideration:

- Opportunities for consolidation and reduction of costs
- Opportunities for strategic sourcing initiatives
- Lowering the total cost of ownership

(2 page maximum)

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Sub-factor 4. Configuration Management: Describe how your company can help the Government achieve its goal of managing the configuration (C.5.2) of its IT hardware and allow for technology refresh or improvement (C.5.7).
(1 page maximum)

FACTOR 3 – PAST PERFORMANCE & RELEVANT EXPERIENCE (35%) –The Offeror must provide the extent and depth of corporate experience in performing the same or similar work as described in the SOW.

Sub-factor 1. Past Performance. This sub-factor will be evaluated on the basis of the Offeror's relevant experience during the last five (5) years. The FAA will determine whether the Offeror's experience, including the planning and implementation, on contracts is similar in size, scope, and complexity to the SAVES IT Hardware requirement. The FAA reserves the right to contact outside references cited on the Relevant Experience / Past Performance questionnaire. Similar experience from current or previous contracts will be compared with the scope of work outlined in Section C. The information presented in the Offeror's proposal, together with information from any other sources available to the FAA, will provide the primary input for evaluation of this factor. The FAA reserves the right to verify specifics of current or previous contracts described by the Offeror's proposal. The FAA also reserves the right to consider information from other sources that the Offeror has supported.

The FAA will evaluate the Offeror's similar experience as it relates to the requirements defined in Section C. Greater consideration will be given to technical solutions that demonstrate relevant experience from contracts of similar size, scope and complexity of this SAVES IT Hardware requirement. Past performance on contracts that are equal to or more technically relevant to the SAVES IT Hardware requirement and similar in size, scope and complexity will receive greater consideration than performance on contracts that are less relevant.

If the FAA receives, for a given Offeror, no Past Performance Questionnaires or only irrelevant questionnaires, the Offeror will be excluded from further consideration of award.

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Sub-factor 2. Relevant Experience: Based on your past experience with contracts of similar complexity and scope, please describe how you track customer satisfaction and how you resolve performance issues such as:

- unresponsiveness to phone calls and emails
- late shipments
- price discrepancies
- reporting issues

Do you have an established and institutionalized approach? (1 page maximum).

In general, contract performance will be evaluated on the extent of client satisfaction with the previous performance of the Offeror; the Offeror's effectiveness in managing and directing resources; the Offeror's demonstration of reasonable and cooperative behavior in dealing with clients; the Offeror's quality of previously performed services; the Offeror's ability manage contract activities; and the Offeror's effectiveness in meeting schedules in providing services and products.

Protest, Exhibit 24 at M-4 to M-8.

19. Section M.3.1.1.1, "Notice" provides:

The FAA will not consider information provided in the Proposal Introduction and Required Documents (Volume I) in the evaluation of Factors 1, 2, and 3 of the Business and Technical Management Proposal.

Protest, Exhibit 24 at M-9.

20. Section M.3.1.1.2, "Scoring" provides:

For each question in the Factors listed above the Offeror will receive a numerical score from 0 to 5 (see table below). Each question has a weighted percentage. The scores from the questions in each factor will be summed and weighted percentages will be applied to the three factors to arrive at a final score.

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Numerical	Definition
5	Greatly exceeds the minimum performance or capability requirements in a way beneficial to the FAA. There are no weaknesses.
4	A proposal having no deficiency and which demonstrates over-all competence. Exceeds the minimum performance or capability requirements in a way beneficial to the FAA.
3	A proposal having no deficiency and which shows a reasonably sound response. There may be strengths or apparent or moderate weaknesses that are correctable. As a whole, weaknesses not offset by strengths do not significantly detract from the Offeror's response.
2	A proposal having no deficiency and which has one or more weaknesses that are correctable. May meet the performance or capability requirements[.]
1	A proposal that has one or more deficiencies or unacceptable weaknesses that demonstrate a lack of overall competence or would require a major proposal revision to correct.
0	Proposal was incomplete or did not address criteria and considered non-responsive[.]

Protest, Exhibit 24 at M-9.

21. Section M.3.1.1.3, "Risk Assessment" provides:

During the course of the Business and Technical Management proposal evaluations, potential risks to the successful performance of the SIR requirements by the Offeror will be identified, reviewed, and assessed by the Evaluators. Risks identified within any aspect of an Offeror's proposal, and within any of the evaluation factors, will be assessed as to their potential impact on work performance, program management, work schedules, and cost. Additionally, risks identified due to inconsistencies and discrepancies between various aspects of each Offeror's proposal will also be evaluated. An overall adjectival rating describing the risk inherent in each Offeror's proposal will be assigned as follows:

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High Risk: Great potential exists for serious work performance problems including, but not limited to, work schedule disruptions, degradation of performance or quality problems and increases in cost, even with special emphasis and close monitoring.

Medium Risk: Some potential exists for work performance problems including, but not limited to, work schedule disruptions, degradation of performance or quality problems, and a commensurate increase in contract costs incurred by the Government. However, with special emphasis and close monitoring by the Government, the Contractor will probably be able to overcome the difficulties.

Low Risk: Minimal or no potential exists for work performance problems, including, but not limited to, work schedule disruptions, quality problems, and a limited or no increase in contract costs incurred by the Government. Any difficulties that may exist will be overcome with normal emphasis and monitoring.

Protest, Exhibit 24 at M-9 to M-10.

22. Section M.3.1.3 Volume III, Subcontracting Plan provides:

The Subcontracting Plan will be evaluated as acceptable or unacceptable. If the plan is determined to be unacceptable, the Offeror will be given an opportunity to revise their original submission of the subcontracting plan during negotiations.

- Pass – Offeror's identifies proposed subcontracting goals consistent with commercial subcontracting goals.
- Fail – Offeror fails to propose goals, or proposed goals consistent with commercial subcontracting goals.

The Offeror's Subcontracting Plan must be acceptable (rated "Pass") in order for the Offeror to be considered for award.

Protest, Exhibit 24 at M-11 to M-12.

D. Source Selection Plan and Scoring Methodology

23. The Source Selection Evaluation Plan (“SSEP”) was approved July 16, 2010. AR Tab 9.
24. The Numerical Scores and Definitions set forth in the SSEP are identical to Section M.3.1.1.2 of the Solicitation. AR Tab 9 at 14.
25. SSEP Section 7.7, “Definition of Terms” provides:

Deficiency: A deficiency is any part of a proposal that fails to satisfy the Government’s requirements through a failure by the Offeror to explain or demonstrate with adequate substantiation that a requirement will be met.

Strength: That part of a proposal, which ultimately represents an added benefit to the Government and is expected to increase the quality of the Offeror’s performance. Strengths are typically high quality personnel, facilities, organizational structures and/or technical approaches that cause the Offeror to perform the work less cost effectively or at a lower level of quality.

Weakness: That part of a proposal which detracts from the Offeror’s ability to meet the Government’s requirements or results in inefficient or ineffective performance. Weaknesses are typically less-than-average quality personnel, facilities, organizational structures and/or technical approaches that cause the Offeror to perform the work less cost effectively or at a lower level of quality. A weakness in itself does not render a proposal technically unacceptable.

AR Tab 9 at 14 (emphasis in original).

26. SSEP Section 7.8 Scoring Computation provides the methodology for arriving at the total overall score. AR Tab 9 at 15.

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27. Section 7.8 first provides that “the total number of possible points for each of the three Evaluation Factors are computed by multiplying the weighted value of each question by the highest evaluative score (5) to arrive at a maximum of 500 possible points per factor:

Factor 1

Sub-Factor#	Weighted Value%	Points
1	15	75
2	35	175
3	10	50
4	15	75
5	25	125
Max Points		500

Factor 2

Sub-Factor#	Weighted Value%	Points
6	25	125
7	25	125
8	35	175
9	15	75
Max Points		500

Factor 3

Sub-Factor#	Weighted Value%	Points
10	65	325
11	35	175
Max Points		500

AR Tab 9 at 15.

28. Next, the SSEP § 7.8 provides that “[t]he relative Factor Value of each Evaluation Factor is computed by dividing the maximum points by the weighted percentage:

Factor (Total Possible Points)	Max Points	Weighted % (Relative Importance)	Factor Value (Max Pts/%)	Total Score (Rounded to Nearest Unit)
Management	500	35	14.3	35

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Approach				
Technical Approach	500	30	16.6	30
Past Performance/Relative Experience	500	35	14.3	35
Total	1500	100%		100

AR Tab 9 at 15.

29. The next requirement of section 7.8 of the SSEP provides:

For each sub-factor/question in the first three Evaluation Factors the Offeror will receive a numerical score from 0 to 5. The numerical score is multiplied by the question's Weighted Percent to arrive at a total number of points for the question. The total number of points for all questions is summed to arrive at the total number of points for the Evaluation Factor.

AR Tab 9 at 15-16.

30. Section 7.8 further provides, "The Offeror's Total Points are divided by the Factor Value to arrive at a score for the Factor." AR Tab 9 at 16.
31. Finally, section 7.8 of the SSEP provides, "The Offerors' scores for each Factor are added together to arrive at the combined scores for the Offerors." AR Tab 9 at 16.
32. SSEP Section 7.9, "Risk Assessment" restates Section M.3.1.1.3 of the Solicitation. AR Tab 9 at 16-17.
33. Section 7.10 of Volume I, "Business & Technical Management Evaluation," restates Section M of the Solicitation (except section M which provides that for additional instructions to offerors such as

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maximum page limitations and directions on where to send past performance questionnaires). AR Tab 9 at 17-20.

34. Section 7.12 of Volume III, “Subcontracting Plan,” restates Section M of the Solicitation, except that the SSEP uses the terms Pass/Fail in describing the scoring methodology whereas Section M uses Acceptable/Unacceptable. AR Tab 9 at 24-25.

E. Results of the Technical Re-Evaluation

35. The Source Selection Official (“SSO”) states: “[T]he Product Team commenced a voluntary corrective action, including a ‘new analysis and recommendation by the Source Selection Evaluation Board; reassessment at the Technical Evaluation consensus level; and a new SSO decision.’” AR Tab 16 (citing Product Team Letter to the ODRA, dated February 7, 2011).
36. In a declaration, Contracting Officer Sharonda Holmes states:

When deciding the scope of the corrective action . . . I considered whether other offerors besides GTSI and Iron Bow should be included in the corrective action. After discussing the matter with the Source Selection Official in detail, and specifically discussing CDW-G, I determined that the SSO’s original decision that CDW-G’s significantly higher Total Evaluated Price was not worth the extra benefit provided by its Technical Proposal was still applicable. The voluntary corrective action had no impact on and did nothing to change that prior determination. Therefore, CDW-G and other higher-priced offerors were not included in the voluntary corrective action.

AR Tab 22, *Declaration of Sharonda Holmes* at ¶ 10.

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37. For the reevaluation, the Offerors, GTSI and Iron Bow, were given the aliases Offeror A and Offeror B respectively. *Second Declaration of Sharonda Holmes* at ¶ 2.
38. The Cost/Price Evaluation Report, Product Group #1 Servers, Storage, Network Devices, dated September 30, 2010 is hereby incorporated by reference into these Findings of Fact. *AR* Tab 8.
39. As part of the reevaluation, the Technical Evaluation Team (“TET”) gave the Contracting Officer its Consensus Technical Evaluation Team Report, dated March 10, 2011. *AR* Tab 12.
40. The TET notes that the Contracting Officer, pursuant to voluntary corrective action, “instructed the [TET] to clarify, reassess, or revalidate the consensus ratings in accordance with the Source Selection Evaluation Plan, SIR, and AMS policy.” *AR* Tab 12 at 1.
41. The TET made the following determination for its consensus ratings:

Name of Offeror	Consensus Rating	Risk Rating
GTSI	[REDACTED]	Low
Iron Bow	[REDACTED]	Low

AR Tab 12 at 1.

42. The TET’s new Report provides a detailed analysis on the reevaluation of GTSI and Iron Bow to arrive at the consensus rating. *AR*, Tab 12 at 2-11.

F. Source Selection Recommendation to the SSO

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43. The Source Evaluation Board issued its Selection Recommendation Report (“SEBSR”) for the SSO, dated April 4, 2011. AR Tab 13.

44. The source selection process is detailed as follows:

The [Source Evaluation Team (“SET”)] Chairperson met with the [Source Evaluation Board (“SEB”)] to present the findings outlined in the SET Report and included the Cost/Price Evaluation Team (PET) and Consensus Technical Evaluation Team (TET) Reports. SEB Members discussed the reports and conducted additional analyses of the data. The SEB recommendation to the SSO is documented in this report and will be presented to the SSO. The SSO will review the documentation to ensure that the evaluation was conducted in accordance with the approved [Source Selection Evaluation Plan (“SSEP”)] and Section M, review the assessments and findings of the SEB, and make the final selection recommendation.

AR Tab 13 at 4.

45. The SEBSR states:

The Business and Technical Management proposals were evaluated for the following three factors (with their weighted percentages):

1. Management Approach (35%) – the processes and procedures to manage the requirements of the contract
2. Technical Approach (30%) – information on what existing resources, assets, and competencies will be utilized to accomplish the objectives of the contract
3. Past Performance & Relevant Experience (35%) – the extent and depth of corporate experience in performing the same or similar work as described in the Statement of Work.

AR Tab 13 at 5.

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46. The SEBSR states:

For each question in the three factors the Offeror received a numerical rating from 0 to 5, with 5 being the highest. The rating for each question's response was deduced from a consensus opinion of the TET based on the strengths, weaknesses, or deficiencies identified by the Team.

AR, Tab 13 at 5.

47. The Business and Technical Management Scores by Factor were:

Offeror	Factor 1 Management Approach	Factor 2 Technical Approach	Factor 3 Past Perf. & Relevant Experience	Final Score
Maximum Score	35	30	35	100
[GTSI]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[Iron Bow]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

AR Tab 13 at 5.

48. The SEBSR describes the evaluation of risk as follows:

The TET also identified and evaluated any potential risks to the successful performance of the SIR requirements. Risks within any aspect of an Offeror's proposal, and within any of the evaluation factors, were assessed as to their potential impact on work performance, program management, work schedules, and cost. An overall adjectival rating of Low, Medium or High was assigned to each Offeror.

AR Tab 13 at 5.

49. The SEBSR concluded: "[GTSI] and [Iron Bow] received Low Risk Assessments by the TET." AR Tab 13 at 5.

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50. The total evaluated prices are as follows:

Offeror	Total Price
[GTSI]	[REDACTED]
[Iron Bow]	[REDACTED]

AR Tab 13 at 6.

51. The SEBSR also states:

Offerors were required to provide their certification levels for nine OEMs: Cisco, Dell, EMC, Hitachi, HP, IBM, NetApp, Oracle (Sun) and Symantec. A Certification Risk Rating level of Low, Medium or High was assigned depending on the number and level of OEM certification. The PET determined that both [GTSI] and [Iron Bow] had Low Certification Risk Ratings. Details on how the levels were assessed are contained in the PET Report.

AR Tab 13 at 6.

52. The SEB made its evaluation by discussing “the PET and TET Evaluation Teams’ results to gain a common understanding of the findings” and comparing: “(1) the Cost/Price evaluation results and Certification Risk ratings; and (2) the Business and Technical Management evaluation results and Risk Assessments.” AR Tab 13 at 6.

53. The results of the PET’s cost/price evaluation as provided to the SEB for review:

Offeror	Cost Risk Rating	Total Evaluated Price	Delta
[GTSI]	Low	[REDACTED]	[REDACTED]

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[Iron Bow]	Low	[REDACTED]	[REDACTED]
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AR Tab 13 at 6.

54. The SEBSR states that both Offerors had “Low Certification Risk Ratings.” AR Tab 13 at 7.

55. The Offeror Certifications for the Primary OEMs are as follows:

OEM	[GTSI]	[Iron Bow]
IBM	[REDACTED]	[REDACTED]
HP	[REDACTED]	[REDACTED]
Dell	[REDACTED]	[REDACTED]
Oracle Sun	[REDACTED]	[REDACTED]
EMC	[REDACTED]	[REDACTED]
Cisco	[REDACTED]	[REDACTED]
Hitachi	[REDACTED]	[REDACTED]
Symantec	[REDACTED]	[REDACTED]
Net App	[REDACTED]	[REDACTED]

AR Tab 13 at 7.

56. The OEM Certification Risk Assessment Descriptions, following the SSEP, are as follows:

Cost Risk	Total	Description
Low Risk	7 to 9	This is the most desirable rating and ensures the best service, support and pricing from the OEMs to the Offeror
Moderate Risk	4 to 6	This is the minimally desirable rating considered to ensure an acceptable level of service, support and pricing from the OEMs to the Offeror
High Risk	0 to 3	Offeror has a less than satisfactory certification level with the primary manufacturers in the product group

AR Tab 13 at 7.

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57. The Offerors Certification Risk Ratings and Certifications are as follows:

Offeror	Risk Rating	Certifications
[GTSI]	Low	[REDACTED]
[Iron Bow]	Low	[REDACTED]

AR Tab 13 at 8.

58. The evaluation of the Business and Technical Management analysis by the SEB is described as follows:

The SEB examined the results of the technical and business management proposal evaluations for [GTSI] and [Iron Bow]. The highest score obtainable on a technical proposal evaluation is 100. A rating of 3 on any sub-factor indicates that the Offeror had a “reasonably sound approach” as described in Section M.3.1.1.2. Additionally, Section M defines a rating of 3 as indicating a proposal having no deficiency. There may be strengths or apparent or moderate weaknesses that are correctable, but as a whole, weaknesses not off-set by strengths do not significantly detract from the Offeror’s response. A 4 rating shows a proposal having no deficiency and which demonstrates over-all competence and exceeds the minimum performance or capability requirements in a way beneficial to the FAA. A ‘5’ rating shows that the offeror greatly exceeds the minimum performance or capability requirements in a way beneficial to the FAA, and there are no weaknesses, or deficiencies.

AR Tab 13 at 8.

59. The following are the scores by Factor and Subfactor:

Management Approach

	[GTSI]	[Iron Bow]
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1	[REDACTED]	[REDACTED]
2	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]
4	[REDACTED]	[REDACTED]
5	[REDACTED]	[REDACTED]

Technical Approach

	[GTSI]	[Iron Bow]
6	[REDACTED]	[REDACTED]
7	[REDACTED]	[REDACTED]
8	[REDACTED]	[REDACTED]
9	[REDACTED]	[REDACTED]

Relevant Experience/Past Performance

	[GTSI]	[Iron Bow]
10	[REDACTED]	[REDACTED]
11	[REDACTED]	[REDACTED]

Total Weighted Scores

	[GTSI]	[Iron Bow]
	[REDACTED]	[REDACTED]

AR Tab 13 at 8-9.

60. The SEBSR states:

As reflected in the scores [], both Offerors [sic] proposals demonstrate their understanding of the FAA's requirements. The Technical Evaluation Team identified numerous strengths in both proposals [REDACTED].

AR Tab 13 at 9.

61. With respect to the evaluation of Subcontracting Plans “[b]oth Offeror’s [sic] A and B received an acceptable rating for their proposed Subcontracting Plan.” AR Tab 13 at 9.

62. The SEB recommended:

* * * *

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The SEB considered the data presented by the SET in the PET Report. While some OEM prices are lower from [Iron Bow], [GTSI]'s proposal provides a lower overall price representing a savings to the FAA of [REDACTED]. [GTSI]'s total evaluated price of [REDACTED] is [REDACTED] lower than [Iron Bow]'s total evaluated price of [REDACTED].

The SEB also considered all of the data presented in the TET Report. [GTSI]'s technical proposal demonstrated a sound approach for all technical sub-factors, with only [REDACTED] that did not significantly detract from the Offeror's response. [Iron Bow]'s proposal also demonstrated an approach to the majority of the sub-factors that exceeded the requirements established in the solicitation. [REDACTED] Both Offerors provided impressive past performance references demonstrating their ability to perform satisfactorily within the scope of this contract.

While [Iron Bow]'s proposal exceeded some requirements within the solicitation, the SEB did not believe that the TET-identified strengths for [Iron Bow] would justify a price premium of [REDACTED]. [REDACTED]. . . Therefore, the Government expects this capability from any contract awardee.

The primary objective of the SAVES Program is to enable the FAA to purchase selected commodities for less while maintaining or improving quality of purchases and our suppliers' service levels. . . . The evaluated price difference of [REDACTED] between the two Offerors was the deciding factor in the SEB's decision. The relative technical advantages and disadvantages between the technical proposals were considered minor and do not warrant expending additional dollars.

The SEB therefore finds that [GTSI]'s proposal represents the best value to the Government and is recommended for award by the Source Selection Official. . . .

AR Tab 13 at 10 (emphasis in original).

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63. After reviewing the recommendation of the SEB, the Source Selection Official, stated in a Memorandum to the SEB, dated April 18, 2011, “[n]oting that section M.1.2 Number of Contracts to be Awarded provides that ‘the FAA reserves the right to award one or more contracts, if it is in the best interest of the FAA’” directed the SEB “to consider whether the possibility of making more than one award affects its recommendation . . . and submit any considerations that it thinks should be considered when making an award decision.” AR Tab 14 (emphasis in original).

64. In a Memorandum to the SSO, dated April 22, 2011, the SEB responded:

Benefits of awarding more than one contract include:

- Two awards would result in immediately available greater discounts as a result of having the option to take advantage of the discounts provided by two Offerors. If you look at each Offeror’s pricing for each of the 13 primary OEMs, it appears that the agency would achieve greater discounts across the board by awarding a contract to each Offeror.
- Unlike some other strategic sourcing commodities, IT hardware prices change quickly as new or updated products are introduced to the market. It was observed that during the previous contract period, FAA’s contract reseller was somewhat sluggish in their price adjustments with market changes. Multiple contracts will provide continuous incentive for “best pricing”. [sic]
- There are situations where specific non-price related terms (such as quicker delivery) could be better satisfied by one vendor. This flexibility would certainly provide intangible benefits that would add to better customer service.

Disadvantages to awarding more than one contract:

- The administrative burden would be greater to administer two contracts. However, the program office

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already plans to have a system in place to manage at least three SAVES IT contracts, and any increase overhead will likely be outweighed by the great potential for cost savings.

- The FAA may lose some ability to streamline and consolidate maintenance and licensing agreements. Consolidating maintenance agreements would potentially allow the FAA to obtain better pricing through bulk discounts that are higher than the minimum discounts in the contract. However, better pricing consistently offered for a specific manufacturer from one contractor or the other may eventually result in all maintenance for a specific manufacture being with the one contractor.
- Two contracts could result in complication for the end users in that they may end up with two identical products which carry maintenance agreements with two different contractors. However, the FAA's barcode system already in place would mitigate this issue.

AR Tab 15.

65. The SEB concluded:

The SEB's original recommendation to the SSO stated our assessment that the price difference of [REDACTED] between the two Offerors was the deciding factor in recommending [GTSI] for selection. After examining the advantages and disadvantages of awarding to two Offerors, the SEB now recommends that the SSO select both [GTSI] and [Iron Bow] for award. Awarding two contracts will likely enable the FAA to realize cost saving above and beyond the [REDACTED] in savings that would be realized by selecting [GTSI] over [Iron Bow].

AR Tab 15.

66. In a Memorandum to the Contracting Officer, dated April 22, 2011, the SSO, made her source selection decision to award two contracts. She states:

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. . . I select both [GTSI] and [Iron Bow] as the winning vendors to receive contracts as a result of this procurement. [GTSI] will receive a contract award of not to exceed 425 million dollars over a period of five years, if all options are exercised. [Iron Bow] will also receive a contract award of not to exceed 425 million dollars over a period of five years, if all options are exercised.

AR Tab 16.

67. The SSO articulates her best value tradeoff analysis as follows:

. . . I examined the technical evaluation results to assess what is represented in the [REDACTED] between [GTSI]'s score of [REDACTED] out of a possible 100 and [Iron Bow]'s score of [REDACTED] out of a possible 100. I understand the SEB's assessment that [Iron Bow]'s strengths represent good business practices, but are not worth paying a price premium of [REDACTED] dollars, and believe they reasonably arrived at their conclusion. However, I believe it is hard to determine whether the extra technical benefits are worth a price premium of [REDACTED] dollars. I determined that the technical capabilities of the two offerors are closely competitive, and that both Offerors would perform the statement of work at low risk.

In assessing the importance of the [REDACTED] between [GTSI]'s Total Evaluated Price of [REDACTED] and [Iron Bow]'s Total Evaluated Price of [REDACTED], I noted that the SIR indicates an annual estimate of \$77,425,000. I determined that the potential savings attributable to [GTSI]'s proposal is not of high significance when considering the dollar amount of the contract. Because the Offerors presented such closely competitive proposals for both Price and Technical factors, I determined it was necessary to look at whether the Agency should consider selecting two Offerors for award.

AR Tab 16 (internal citations omitted).

68. With respect to two awards, the SSO concludes:

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. . . I determined that awarding to both A and B in this situation will potentially result in additional cost savings to the FAA above and beyond the [REDACTED] in savings that [the] FAA would potentially realize in awarding one contract to [GTSI]. In addition to the immediate availability of lower pricing the FAA would realize from the ability to take advantage of the areas that both Offerors provided the most advantageous discounts, I believe that the FAA would gain the potential to realize additional cost savings throughout the life of the contract due to the added incentive that will result from continued competition. I also considered disadvantages of awarding more than one contract, such as the increased administrative costs, the loss of streamlining and tracking of certain purchases, and complication for end users. I determined that the disadvantages that would result from two awards are outweighed by the cost savings that the FAA will potentially realize by awarding to both A and B.

AR Tab 16.

III. Discussion

In accordance with the ODRA Procedural Regulation, 14 C.F.R. Part 17, and the FAA's Acquisition Management System ("AMS"), the ODRA will recommend that a post-award bid protest be sustained where a contract award decision lacks a rational basis, is arbitrary, capricious, or an abuse of discretion. *Protest of Ribeiro Construction Company, Inc.*, 08-TSA-031. In "best value" procurements, such as in the instant case, the ODRA will not substitute its judgment for that of the designated evaluation and source selection officials as long as their decisions satisfy the above test. *Protest of PCS*, 01-ODRA-00184. An offeror's mere disagreement with the source selection officials' judgment is insufficient grounds to establish that they acted irrationally. *Protest of En Route Computer Solutions*, 02-ODRA-00220. The Protester bears the burden of proof by substantial evidence and must further demonstrate that the complained-of action resulted in prejudice to the Protester. 14 C.F.R. § 17.37(j); *Protest of Carahsoft/Avue*, 08-TSA-034.

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Here the Product Team decided to take voluntary corrective action “to resolve a potentially meritorious protest . . . against an award of an IDIQ contract to Iron Bow Technologies, LLC” filed by GTSI. FF 5-8; AR at 1. The SSO further states that “the Product Team commenced a voluntary corrective action, including a ‘new analysis and recommendation by the Source Selection Evaluation Board; reassessment at the Technical Evaluation consensus level; and a new SSO decision.’” FF 35; AR, Tab 16 (quoting Product Team Letter to the ODRA, dated February 7, 2011). The ODRA notes that the Solicitation expressly provided the Product Team with the authority to make multiple awards. FF 12.

The Product Team asserts that the issue in the current Protest is “whether, in deciding to resolve the GTSI [P]rotest through ADR, the Product Team was without [a] rational basis in perceiving litigation risk.” AR at 8. The Product Team relies primarily on *Protest of Communications Technology, Inc.*, 03-ODRA-00257 in support of its position. CDW-G, following the Product Team’s reasoning, counters that “a contract award that arises from a desire to triage litigation risk is patently divorced from the requirements of the RFP’s best value scheme. . .” *CDW-G Comments* at 9. However, notwithstanding the parties’ views, the issue of whether litigative risk justified the decision to take corrective action in response to the GTSI Protest is not determinative of the challenge presented in the instant Protest. Unlike in *Communications Technology, supra*, the instant Protest does not challenge the rational basis for the Agency’s decision to enter into a settlement or undertake voluntary corrective action. Here, the ODRA already has determined that the only timely issue presented by the instant Protest concerns the best value determination that resulted in the award to GTSI, based on the stated evaluation criteria. *Protest of CDW Government LLC*, 11-ODRA-00575 (Decision of Summary Dismissal Motions, July 20, 2011).²

With respect to that issue, the record establishes that the re-evaluation resulted in a well supported best value determination by the Product Team to make award to GTSI. Section M.1.1 of the Solicitation provides for a “best value trade-off approach” that

²The ODRA notes that CDW-G was not a party in the GTSI Protest proceedings.

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results in an award to the Offeror with the “greatest overall value to the FAA.” FF 13. The trade-off is further defined to mean that the FAA would not “make an award to an Offeror who proposes a significantly higher overall price to achieve slightly superior technical approach.” FF 13. The Solicitation’s best value definition clearly states that technical evaluation factors are less important than price. FF 15. Moreover, it is undisputed that both of the awardees’ prices were lower than the price proposed by CDW-G. *CDW-G Comments* at 3. Notwithstanding CDW-G’s assertion to the contrary, *Id.* at 5-6, the TET and Source Evaluation Board (“SEB”) applied and followed the stated evaluation criteria from the Solicitation in a manner consistent with the Source Selection Evaluation Plan (“SSEP”) in its re-evaluation. *Compare* FF 16-34 *with* FF 41-62.

The record also clearly supports the SSO’s best value determination to award a contract to GTSI. After reviewing the recommendation of the SEB, the SSO specifically cited to section M.1.2 of the Solicitation, which “reserves the right to award one or more contracts, if it is in the best interest of the FAA,” and directed the SEB “to consider whether the possibility of making more than one award affects its recommendation . . . and submit any considerations.” FF 63. In a Memorandum to the SSO, dated April 22, 2011, the SEB detailed the benefits and disadvantages of making two awards under the express terms of the Solicitation. FF 64. The benefits of awarding more than one contract were described as achieving greater discounts; continuous incentives for “best pricing”; and better customer service. FF 64. The disadvantages were cited as the greater administrative burden with respect to managing two contracts (however, the SEB noted the Program Office’s plans to have a system to manage at least three SAVES information technology (“IT”) contracts); the possibility that the FAA may lose some ability to streamline and consolidate maintenance and licensing agreements; and the fact that two identical products will carry maintenance agreements with two different contractors. FF 64. In the end, the SEB recommended making two awards. FF 65.

In a Memorandum to the Contracting Officer, dated April 22, 2011, the SSO made her determination that awarding two contracts would result in the best value to the FAA. FF

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66. The SSO articulated her tradeoff analysis by finding that “the technical capabilities of the two offerors are closely competitive, and that both Offerors would perform the statement of work at low risk.” FF 67. The SSO further found “that the potential savings attributable to [GTSI]’s proposal is not of high significance when considering the dollar amount of the contract” and “will potentially result in additional cost savings to the FAA above and beyond the [REDACTED] in savings that [the] FAA would potentially realize in awarding one contract to [GTSI].” FF 67. Finally, the SSO determined “that the FAA would gain the potential to realize additional cost savings throughout the life of the contract due to the added incentive that will result from continued competition.” FF 68.

The record further demonstrates that the Product Team’s decision not to include CDW-G in the reevaluation has a rational basis and is not arbitrary and capricious. In a declaration, the Contracting Officer states:

When deciding the scope of the corrective action . . . I considered whether other offerors besides GTSI and Iron Bow should be included in the corrective action. After discussing the matter with the Source Selection Official in detail, and specifically discussing CDW-G, I determined that the SSO’s original decision that CDW-G’s significantly higher Total Evaluated Price was not worth the extra benefit provided by its Technical Proposal was still applicable. The voluntary corrective action had no impact on and did nothing to change that prior determination. Therefore, CDW-G and other higher-priced offerors were not included in the voluntary corrective action.

FF 36. Thus, the Product Team’s re-evaluation relied on the initial evaluation conclusions with respect to CDW-G, which specifically concluded that the SSO’s earlier determination that the CDW-G offer was not the best value. *Id.* The results of CDW-G’s initial evaluation were not protested.

CDW-G asserts in the instant Protest that its “technical superiority significantly outweighed the modest price premium that it proposed over GTSI’s price” making it the best value to the FAA. *CDW-G Comments* at 6. In support of its arguments, CDW-G

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cites to decisions of the Government Accountability Office (“GAO”) in support of its position. *Id.* (citations omitted).³ CDW-G’s arguments in this regard amount to no more than mere disagreement with the SSO’s determination that GTSI, not it, represented the best value to the FAA and are insufficient to establish that the Product Team acted irrationally. *Protest of En Route Computer Solutions*, 02-ODRA-00220. The ODRA will not substitute its judgment as to which Offeror presents the best value to the FAA, where, as here, the SSO’s determination has a rational basis and is not arbitrary, capricious or an abuse of discretion. *Protest of PCS*, 01-ODRA-00184; *see also Protest of Systems Atlanta, Inc.*, 10-ODRA-00530 (“the SSO possesses ‘full authority to select the source for award.’”) (internal citations omitted).

³ While the ODRA has said it considers decisions of the GAO to be persuasive, where consistent with AMS Policy, *Protest of International Services, Inc.*, 02-ODRA-00224, in the instant case the ODRA’s own precedents are clear and controlling. CDW-G has not demonstrated by substantial evidence that the decision to award a contract to GTSI lacks a rational basis or was otherwise improper. *Protest of Ribeiro Construction Company, Inc.*, 08-TSA-031.

IV. Conclusion

For the foregoing reasons, the ODRA concludes that the Product Team's best value determination to award a contract to GTSI was consistent with the stated evaluation criteria in the Solicitation, has a rational basis and is not otherwise arbitrary or capricious. The ODRA therefore recommends that the Protest be denied.

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