



DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: XTec, Inc.
File: B-410778.3
Date: October 1, 2015

David S. Cohen, Esq., John J. O'Brien, Esq., and Gabriel E. Kennon, Esq., Cohen Mohr LLP, for the protester.
Richard J. Conway, Esq., Michael J. Slattery, Esq., and Christian N. Curran, Esq., Dickstein Shapiro LLP, for HP Enterprise Services, LLC, an intervenor.
Christine L. Krell, Esq., and Adam C. Supple, Esq., General Services Administration, for the agency.
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency's cancellation of solicitation is denied where record shows that the agency reasonably concluded that the solicitation failed to contain adequately detailed information regarding various contract performance requirements.
2. Protest is sustained for agency's lack of adequate and reasonable advance planning where, despite knowing of and documenting the need for detailed solicitation requirements nearly 4 years prior to cancellation, the agency issued the solicitation containing only "high level" requirements and conducted the procurement, then cancelled the solicitation because it failed to include sufficiently detailed requirements.

DECISION

XTec, Inc., of Reston, Virginia, protests the General Services Administration's (GSA) cancellation of request for quotations (RFQ) No. 858797 for products and services related to personal identification verification (PIV) for government employees and contractors, as required by Homeland Security Presidential Directive No. 12 (HSPD-12). XTec also protests the GSA's extension of a sole-source task order previously awarded to HP Enterprise Services, LLC (HPES) to provide the products and services contemplated by the cancelled solicitation.

XTec asserts that the cancellation was improper because the solicitation reasonably reflected all of the agency's needs; alternatively, XTEC asserts that the solicitation's flaws were caused by GSA's failure to engage in reasonable advance planning. XTEC also asserts that extension of HPES's task order was caused by GSA's failure to engage in reasonable advance planning, and that the task order extension was improperly justified.

We sustain the protest based on the agency's failure to engage in reasonable advance planning.

BACKGROUND

In August 2004, President George W. Bush issued HSPD-12, directing the development of a new standard for secure and reliable forms of identification for federal employees and contractors. In February 2005, the National Institute of Standards and Technology (NIST) responded by publishing Federal Information Processing Standard (FIPS) 201, which established specific personal identification verification (PIV) requirements. Agency Report (AR), Tab 1, Contracting Officer's Statement, July 27, 2015, at 1. Thereafter, GSA established the HSPD-12 Managed Services Office (MSO) to provide "turn-key" HSPD-12 and FIPS 201 compliance services for other federal agencies.¹ Id.

Previous Awards to HPES

In January 2007, GSA issued a competitive solicitation under its federal supply schedule (FSS) program, requesting quotations from contractors for "end-to-end" HSPD-12 services and explaining that the subsequent task order would be used as a shared service solution by various federal agencies. In April 2007, GSA awarded a task order to Electronic Data Systems, Inc. (EDS).² Pursuant to that task order, EDS/HPES provided various HSPD-12 compliance services to multiple federal agencies, through GSA's MSO and under the program name of USAccess, from April 2007 until April 2012. Id.

¹ The Office of Management and Budget has appointed GSA as the "executive agent" for HSPD-12, and encourages other federal agencies to use the GSA-provided services; however, GSA is not a mandatory source of supply. Protest, exh. 1, Contracting Officer's Statement, Sept. 8, 2011; AR, Tab 2, Request for Information, at 2.

² EDS was subsequently acquired by HPES's parent corporation.

On July 25, 2011, GSA's contracting officer awarded a sole-source "logical follow-on" task order to HPES, permitting HPES to continue providing the HSPD-12 services;³ performance of that sole-source award began on April 1, 2012. Id. In the limited source justification supporting that award, GSA noted that any contractor other than the incumbent would be required to integrate its own system into the existing customer databases, which would create "disruption, transition delays, duplication of costs, and new costs" for MSO and its customer agencies. See XTec, Inc., B-405505, Nov. 8, 2011, 2011 CPD ¶ 249 at 8. In further supporting the award, the contracting officer explained that the services HPES was providing were "built around a proprietary set of technologies that combine databases and middleware"; that customer agencies had invested heavily in "light credentialing configurations";⁴ and that "[m]ost of the USAccess customers have slightly different requirements for interface with their internal systems. . . each of which required that HPES develop a custom interface." Protest, exh. 1, Contracting Officer's Statement, Sept. 8, 2011, at 3-4. The contracting officer also stated that the logical follow-on "is for a period not to exceed three years, and cannot be used as a justification in the future." Id. at 6.

In August 2011, XTech filed a protest challenging the agency's 2011 sole-source award to HPES. We denied that protest on the basis that the agency's concerns regarding the risks associated with transitioning to a non-incumbent contractor were reasonable at that time. XTec, Inc., supra.

Awards to XTEC

In responding to XTEC's current protest, the contracting officer states that GSA's planning for the procurement to replace HPES's sole-source logical follow-on task order began in April 2013.⁵ At that time, GSA formed an "Interdisciplinary Project

³ The applicable Federal Acquisition Regulation (FAR) provisions permit a sole-source award where the work to be performed "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 . . . must not have been previously issued under sole-source or limited-sources procedures." FAR § 8.405-6 (FAC 2005-50), May 16, 2011.

⁴ That is, hardware owned by the agencies.

⁵ The agency states that from 2010 through 2013, it identified "core" and "non-core" services in HPES's task order and, during that period, it "unbundled" portions of the HPES task order by awarding three separate contracts for "non-core" services to other vendors. Hearing Transcript (Tr.) at 24-25. Specifically, the agency established a BPA with Entrust, Inc., for public key infrastructure (PKI) services in November 2011 (PKI services involve creating a certificate that "binds" a PIV card to an individual identity, Tr. at 21); established a BPA with XTEC for production of

(continued...)

Team” (IPT) consisting of “MSO personnel and HSPD-12 specialists from several of USAccess’ customer agencies.”⁶ Contracting Officer’s Statement, July 27, 2015, at 2. In June 2013, the agency issued a request for information (RFI) that included “high level requirements” and sought “information, comments, feedback and recommendations from . . . Government agencies and Contractors.” Supp. Contracting Officer’s Statement, Aug. 8, 2015, at 1; AR, Tab 2, RFI, at 1. At the hearing GAO conducted in connection with this protest,⁷ the contracting officer testified that the RFI responses received by GSA’s MSO “were incorporated into the requirements document where appropriate,” but that customer agencies were not involved in this process. Tr. at 252-53.

On March 25, 2014, the agency issued RFQ No. 858797 to FSS schedule 70 contractors with awards for special item number (SIN) 132-62, HPSD-12 Products and Services Components, seeking quotations to replace HPES’s sole-source task order. AR, Tab 3, RFQ. Among other things, the solicitation contained a performance work statement (PWS) identifying “Specific Tasks and Deliverables;”⁸ stated that, “[t]he successful contractor will supply the systems, software, and interfaces necessary to transition the previously developed business and technical processes;” and established three evaluation factors--technical,⁹ management

(...continued)

PIV cards and personalization services in 2012; and awarded a task order to Grant Thornton for administration and integration services in June 2013. Id.; Contracting Officer’s Statement July 27, 2015, at 2; Supp. Contracting Officer’s Statement, August 8, 2015, at 1.

⁶ The IPT was specifically created for the procurement to replace the HPES task order, and the goals of the IPT were to “reach consensus on requirements” and “develop a strategy” for this acquisition. Contracting Officer’s Statement, July 27, 2015, at 2.

⁷ In resolving this protest GAO conducted a hearing, on the record, at which testimony was provided by the contracting officer, the MSO program manager (who chaired the technical evaluation team), and the head of the contracting activity.

⁸ Although the PWS heading refers to “Specific Tasks and Deliverables,” the agency states that, even after receiving responses to the June 2013 RFI, the RFQ contained only “high level” requirements. See AR, Tab 10, Contracting Officer’s Cancellation Memorandum, May 6, 2015, at 1-3; Tr. at 7, 267.

⁹ Under the technical factor, the solicitation identified three subfactors, listed in descending order of importance: operational capability demonstration (OCD); transition plan; and understanding of and capability to fully and timely perform technical requirements. AR, Tab 3, RFQ, at 34-35.

approach,¹⁰ and price. RFQ at 4, 6, 34-35. The solicitation provided that the technical factor was more important than the management approach factor, that the non-price factors combined were more important than price, and that award would be made on a “best overall value” basis. RFQ at 34.

On or before the May 7, 2014 closing date, quotations were received from HPES and XTec. Thereafter, the agency evaluated the proposals and, on October 31, selected XTec for award. Contracting Officer’s Statement, July 27, 2015, at 2. On November 20, HPES protested that award to this Office. On November 24, GSA advised our Office that it intended to take corrective action, to include reevaluation of the proposals. Accordingly, we dismissed HPES’s November 20 protest.

On December 2, the agency’s technical evaluation team (TET) reconvened and “began evaluations without regard to previous documentation.” Id. at 3. In January 2015, the TET completed its revised evaluation and provided its report to the contracting officer. AR, Tab 46(c), TET Consensus Report. Overall, the two quotations were rated as follows:

	XTec	HPES
Technical		
OCD (30 pts)	[redacted]	[redacted]
Transition Plan (25 pts)	[redacted]	[redacted]
Understanding/Capability (20 pts)	[redacted]	[redacted]
Management Approach		
Project Management Plan (15 pts)	[redacted]	[redacted]
Past Performance (5 pts)	[redacted]	[redacted]
Small Business Utilization Plan (5 Pts)	[redacted]	[redacted]
Total Non-Price Factor Point Score	80.51	87.43
Evaluated Price	\$43,959,196	\$50,795,527

AR, Tab 46(a), Price Negotiation Memorandum, at 10; Tab 46(c), TET Consensus Report, at 8.

After reviewing the TET report,¹¹ the contracting officer again selected XTec’s quotation for award, summarizing her award decision as follows:

¹⁰ Under the management approach factor, the solicitation listed three subfactors: project management plan, past performance and small business utilization plan. RFQ at 34.

¹¹ The contracting officer noted that “[t]he results of the second evaluation were similar to the results of the first.” Contracting Officer’s Statement, July 27, 2015, at 6.

The two quotes are closer in technical merit than they are in price. Both quotes offered technical solutions with strengths and weaknesses. HP's quote provides a stronger [redacted], while XTec's quote provided a stronger [redacted]. . . .

The TET identified some risks in the areas of transition that were higher for XTec than HP. The risks and concerns expressed by the TET would be present if any party other than the incumbent were to be awarded this task. The risk is in the nature of the transition itself. . . . It should be noted that the transition CLINs [contract line item numbers] and the main operations CLINs are Firm Fixed-Price. . . . XTec's [redacted] is more "simple and unified" than that of HP. Because XTec wrote and created its solution, it offers the Government a [redacted] and actually provides a greater functionality in some areas that [redacted] . . .

I have determined that award should be made to XTec. . . . While there are some risks associated with transition, those risks have not been evaluated as insurmountable or significant enough to prevent an award to the non-incumbent. Both systems are viable. . . . XTec has proposed [redacted], and a better price for the Government. Award to XTec represents the Best Value to the Government.

AR, Tab 46, Price Negotiation Memorandum, at 10-11.

Accordingly, a second award was made to XTec on February 12, 2015. On February 20, HPES filed another protest with this Office, again challenging the award to XTec. On March 18, GSA again stated that it intended to take corrective action to include yet another evaluation of proposals. Thereafter, we dismissed HPES's February 20 protest.

On March 27, 2015 the contracting officer signed a modification to the sole-source task order awarded to HPES in 2011 (which was scheduled to expire within a matter of days), extending the performance period of that task order by up to two years "in order to accomplish transition activities." Contracting Officer's Statement, July 27, 2015 at 6. At that time, no formal justification for the extension of the task order was created.

The contracting officer states that she subsequently learned that "there was a growing lack of confidence among customers and a concern that the RFQ lacked requirements pertaining to their substantial investments in peripheral systems, programming efforts, and interfaces to systems outside USAccess." Id.

On April 16, 2015, GSA conducted a meeting with its customer advisory board (CAB);¹² that meeting was attended by, among others, GSA's Assistant Commissioner for Integrated Technology Services, who was the head of the contracting activity (HCA) for this procurement.¹³ During this meeting various customer agency representatives criticized the scope of the RFQ requirements, complaining, for example, that the solicitation did not adequately address matters such as "testing interfaces, setting up new instances of SIP [standard interface protocol] with [customer agencies'] downstream systems,¹⁴ training their teams, and the associated costs that are external to GSA." Contracting Officer's Statement, July 27, 2015, at 7. At this meeting the customer agency representatives also expressed concern that the RFQ "did not provide detailed specifications sufficient for the vendors to demonstrate their ability to leverage the customer-owned hardware" and complained that a 5-year period of performance was too short. Id. As described by the HCA at the GAO hearing, "[m]ost agencies expressed some consternation with the fact that they had built multiple links and interfaces to the USAccess platform that they didn't believe were captured in the requirements document." Tr. at 478.

By email to the contracting officer dated April 29, the MSO program manager requested cancellation of solicitation No. 858797 "in order to develop a new acquisition" because "MSO has identified additional factors and requirements that our customers have indicated should be included in the solicitation." AR, Tab 26, Email from MSO Program Manager to Contracting Officer, at 1. The MSO program manager's email further stated: "The revised acquisition is expected to take up to two years for completion. Meanwhile, the USAccess service will continue as it is now with no interruption or change." Id.

On May 6, 2015, the contracting officer wrote a Memo to File, titled "Cancellation of RFQ 858797." In this document she stated:

Since this solicitation was issued, the MSO and its Customer Agencies have identified additional requirements that should be included in the

¹² The CAB consists of MSO's customer agencies and has been in existence for several years. The CAB "is responsible for selecting and prioritizing initiatives that are brought forth by the customer agencies," but it "is not responsible for developing requirements for strategic initiatives." AR, Tab 22, CAB Charter, May 2014, at 2.

¹³ The agency states that during an earlier CAB meeting in March 2015, customer agencies had begun to express concerns, Tr. at 45-49, and that the HCA was invited to attend the April CAB meeting. Tr. at 475-76.

¹⁴ The SIP is used to connect agency systems to the USAccess system. Tr. at 17-18. It allows agencies to provide data from, for example, their human resource systems or their security systems to the USAccess system. Tr. at 18.

solicitation. The MSO's customers have recently indicated that there are requirements not addressed by the solicitation regarding costs external to GSA and operational impact on existing customers. . . .

During the acquisition planning phase for [this solicitation], the Customer Agencies' participation and input was focused on high-level HSPD-12 core services requirements based on their needs at that time. They also did not participate in the actual development of any acquisition documents such as the Performance Work Statement (PWS) or in the evaluations. . . .

The current RFQ/PWS was written at a very high level to attempt to leverage industry expertise. However, the lack of specificity meant that the proposals that were received left many questions unanswered. . . .

The MSO and its management believe that more detailed requirements that include all of the now known needs will result in a better solution for the government and that the only way to ensure this happens is to cancel [the solicitation] and begin a new acquisition.

AR, Tab 10, Contracting Officer Memo to File, at 1-3.

On June 16, the HCA signed a limited source justification (LSJ) to authorize the contracting officer's March 27 extension of HPES's sole-source task order.¹⁵ The LSJ stated:

HP is the only contractor capable of providing the required supplies and services at the required level of quality because the supplies and services are highly specialized. . . .

While awaiting award and possible transition under the competitive process, continued performance of the current system is critical. . . .

The extended service of the current order is required during evaluation, award, and possible transition to a new service provider. . . .

AR, Tab 9, LSJ, at 3-4.

Nothing in the agency's June 16, 2015 LSJ discussed cancellation of RFQ No. 858797, even though the contracting officer had concluded more than a month earlier that cancellation was necessary due to the need for "more detailed

¹⁵ The LSJ was signed by the contracting officer and the MSO program manager on June 1.

requirements.” See AR, Tab 10, Contracting Officer Memo to File, at 1-3. The agency maintains that, although the LSJ was not signed until June, it properly “reflect[ed] the reasoning that GSA had at the time the [March 27] modification was executed.” Contracting Officer’s Statement, July 27, 2015, at 8.

On June 17, the agency published notice of the extension to HPES’s sole-source task order. On June 18, the agency announced cancellation of RFQ No. 858797, stating that the agency intended to “re-evaluate its requirement and reissue another solicitation at a later date.” Protest, exh. 6, Cancellation of Solicitation. This protest followed.

DISCUSSION

XTec protests the cancellation of RFQ No. 858797 on the basis that the solicitation reasonably reflected all of the agency’s needs and, therefore, cancellation was improper. Alternatively, XTec protests that cancellation due to solicitation flaws was caused by GSA’s failure to engage in reasonable advance planning. Finally, XTec protests that any need to extend HPES’s sole-source task order was similarly created by GSA’s failure to engage in reasonable advance planning, and that it was improperly justified.

Cancellation of Solicitation

XTec first asserts that cancellation of RFQ No. 858797 was improper since the RFQs “broadly worded requirements” were sufficient in scope to cover all of the more detailed requirements GSA now asserts must be included in the solicitation. Protest at 8-14.

A contracting agency need only have a reasonable basis to support a decision to cancel an RFQ. Progressive Servs. Corp., B-404183, B-404251.2, Jan. 11, 2011, 2011 CPD ¶ 18 at 2. A reasonable basis to cancel exists when, for example, an agency determines that a solicitation does not accurately reflect its needs. MedVet Dev. LLC, B-406530, June 18, 2012, 2012 CPD ¶ 196 at 2-3.

The agency responds that, early in 2015, it was “made aware by its customer agencies” that the solicitation “insufficiently captured various agencies’ requirements.” Agency Legal Memorandum, July 27, 2015, at 8. More specifically, the agency maintains that the solicitation failed to contain detailed requirements regarding the SIP interface between the customer agencies’ systems and the USAccess system; failed to reflect sufficient requirements regarding customer-owned hardware; and identified a performance period that was too short. Id. at 8-10; AR, Tab 10, Contracting Officer’s Cancellation Memo, May 6, 2015, at 2. Although not reflected in the contracting officer’s cancellation memo, the agency’s response to this protest also asserts that the solicitation should reflect a

requirement for “derived credentials,”¹⁶ which was “being developed” at the time of cancellation. Agency Legal Memorandum, July 27, 2015, at 10.

Here, based on our review of the entire record, we cannot conclude that the agency’s decision to cancel the solicitation was unreasonable. That is, we cannot conclude that the solicitation’s “high level” requirements were, in fact, adequate to meet the government’s needs. Accordingly, we reject XTec’s assertion that cancellation of the solicitation was unreasonable.

Alternatively, XTec asserts that cancellation of the solicitation was caused by the agency’s failure to engage in reasonable and adequate advance planning. We agree.

The Competition in Contracting Act of 1984 (CICA) generally requires that agencies engage in “full and open competition” when conducting government procurements. 41 U.S.C. § 3301(a). While there are specific exceptions to this general requirement, under no circumstances may noncompetitive procedures be used due to a lack of advance planning by contracting officials.¹⁷ 41 U.S.C. § 3304(e)(5); New Breed Leasing Corp., B-274201, B-274202, Nov. 26, 1996, 96-2 CPD ¶ 202 at 6; TeQcom, Inc., B-224664, Dec. 22, 1986, 86-2 CPD ¶ 700. Our Office has recognized that, while the requirement for advance planning does not mean that such planning must be completely error-free, see, e.g., Sprint Communications Co.,

¹⁶ The agency states that derived credentials “allow[] the use of PIV credentials to access mobile devices like tablets and mobile phones, but without using an attached card reader mounted to the device.” Agency Legal Memorandum, July 27, 2015, at 10.

¹⁷ The Senate Report on CICA explained: “Effective competition is predicated on advance procurement planning and an understanding of the marketplace.” S. Rep. No. 50, 98th Cong., 2d Sess. 18 (1984), reprinted in 1984 U.S.C.C.A.N. 2191. The Senate Report also quoted with approval the following testimony regarding the need for advance planning:

Opportunities for obtaining or improving competition have often been lost because of untimely, faulty, or the total lack of advance procurement planning. Noncompetitive procurement or inadequate competition also has resulted many times from the failure to develop specifications By requiring effective competition, Congress will serve notice on the agencies that they will need to do more than the minimum to comply with the statute.

S. Rep. No. 50, 98th Cong., 2d Sess. 19 (1984), reprinted in 1984 U.S.C.C.A.N. 2192.

L.P., B-262003.2, Jan. 25, 1996, 96-1 CPD ¶ 24, as with all agency procurement actions, the advance planning required by CICA must be reasonable. In considering this statutory requirement, we have noted that contracting officials have a duty to promote competition. Precision Logistics, Inc., B-271429, July 18, 1996, 96-2 CPD ¶ 24 at 5; National Aerospace Group, Inc., B-282843, Aug. 30, 1999, 99-2 CPD ¶ 43. That is, contracting officials must act affirmatively to obtain and safeguard competition; they cannot take a passive approach and remain in a sole-source situation when they could reasonably take steps to enhance competition. HEROS, Inc., B-292043, June 9, 2003, 2003 CPD ¶ 111 at 7.

Here, as discussed above, the agency asserts that it was required to cancel the solicitation due to the solicitation's failure to adequately address various requirements of the customer agencies, including the SIP interface requirements; agency-owned hardware; training of agency personnel; and the length of the performance period. See Agency Legal Memorandum, July 27, 2015, at 8-10; AR, Tab 10, Contracting Officer's Cancellation Memorandum, May 6, 2015, at 2. In responding to XTec's protest, the agency asserts that it had no reason to know of these solicitation omissions until its customer agencies began expressing their concerns early in 2015. Id.

Contrary to the agency's assertions, the record establishes that the agency knew in 2011--when it justified, and defended, its prior award of a sole-source task order to HPES--that the USAccess system was "built around a proprietary set of technologies that combine databases and middleware"; that customer agencies had "invested heavily" in hardware for light credentialing configurations; and that "[m]ost of the USAccess customers have slightly different requirements for interface with their internal systems," each of which had required a "custom interface." Protest, exh. 1, Contracting Officer's Statement, Sept. 8, 2011, at 3-4. In short, the agency's 2011 justification for not competing the logical follow-on task order awarded to HPES expressly referenced the very concerns on which it now relies to support its decision to cancel RFQ No. 858797. Notwithstanding the agency's 2011 documented recognition of the need for detailed requirements, the agency published RFQ No. 858797 with only "high level" requirements, received and evaluated quotations on that basis, and twice selected XTec for award--asserting that it only reasonably knew that the requirements were inadequate early in 2015. On the record here, we reject the agency's assertion that it did not know of the necessity for more detailed requirements until earlier this year.

Even if we were to conclude that the agency did not previously know of the customer agencies' need for more detailed requirements, we reject the argument that such lack of knowledge was reasonable. As noted above, pursuant to CICA's requirements for advance planning, contracting officials have an affirmative obligation to promote competition and may not take a passive approach to remaining in a sole-source situation when they could reasonably take steps to enhance competition. HEROS, Inc., supra. Here, the MSO program manager

acknowledged at the GAO hearing that GSA had “a very robust communication mechanism with our agency customers,” but, nonetheless, that the customer agencies “felt like the things they were concerned about . . . had not ended up in the RFQ.” Tr. at 34, 36. In this context, the MSO program manager acknowledged that “GSA should have reached out more strenuously to the agency customers to ask them for further detail.” *Id.* Similarly, the HCA testified that: “we . . . had some leadership turnover in the last three years. . . [a]nd . . . the leadership down to the program folks had not had experience in these kinds of transitions and programs and just had not adequately thought it through or planned for it.” Tr. at 501. On this record, we sustain XTec’s protest based on the agency’s failure to engage in reasonable advance planning.¹⁸

Extension of HPES’s Task Order

XTec also protests that the extension of HPES’s sole-source task order similarly flowed from the agency’s failure to engage in advance planning, and further asserts that the extension was illegal in that the agency provided no justification for that action until nearly two months after it had taken place. For the reasons discussed above, we agree that the agency’s extension of the task order was caused by its failure to engage in reasonable advance planning, and sustain the protest.

We further view the agency’s failure to either execute or publish the LSJ for nearly two months after the action was taken to be contrary to the requirements of CICA, under which such justification must generally be executed prior to the action being taken, and notice of the action must be published within 14 days. 41 U.S.C. §§ 3304(e), (f). Here, there can be no dispute that the agency failed to comply with these requirements. Nonetheless, in light of our decision sustaining the protest for failure to engage in reasonable advance planning, and our recommendations below, we do not further address this matter.

¹⁸ The agency notes that its actions in this matter have been taken pursuant to FAR subpart 8.4, which provides that “orders placed against a [Multiple Award Schedule contract], using the procedures in this subpart, are considered to be issued using full and open competition.” Agency’s Post-Hearing Comments, Aug. 28, 2015, at 25. The agency asserts that this FAR provision “necessarily means” that GSA “could not have violated [CICA’s requirement for advance planning].” *Id.* We reject GSA’s assertion that any portion of FAR subpart 8.4 negates CICA’s statutory requirement that agencies engage in reasonable advance planning when conducting federal procurements. See FAR § 8.404(c).

RECOMMENDATION

Since we do not question the reasonableness of the agency's determination that RFQ No. 858797 failed to adequately address the government's requirements, and there is no dispute that the government has an ongoing need for the HSPD-12 services, we do not recommend that the cancelled solicitation be reinstated or that HPES's ongoing performance of the sole-source task order be terminated. We do recommend that the agency make expeditious efforts to prepare the new solicitation and conduct a competition thereunder. Further, based on the agency's extension of the HPES task order for up to two years, we recommend that GSA reimburse XTec for the proposal preparation costs it incurred in responding to the solicitation that GSA now concludes was fatally flawed. See The Jones/Hill Joint Venture, B-286194.4 et al., Dec. 5, 2001, 2001 CPD ¶ 194 at 22; COBRO Corp., B-287578.2, Oct. 15, 2001, 2001 CPD ¶ 181 at 9. Finally, we recommend that the protester be reimbursed the reasonable costs of filing and pursuing its protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protester's certified claim for costs, detailing the time spent and costs incurred, must be submitted to the agency within 60 days of receiving this decision. 4 C.F.R. § 21.8(f)(1).

Susan A. Poling
General Counsel