



Comptroller General
of the United States

11261

Washington, D.C. 20548

Decision

Matter of: Payco American Corporation

File: B-253668

Date: October 8, 1993

Virginia D. Green, Esq., and Sarah M. McWilliams, Esq., Reed, Smith, Shaw & McClay, for the protester. John D. Quinn, Esq., and Michael W. Ambrose, Jr., Esq., Fehrenbacher, Sale, Quinn & Deese, for CSC Credit Services, Inc., an interested party. Nora A. Huey, Esq., and Michelle Harrell, Esq., General Services Administration, for the agency. Daniel I. Gordon, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Evaluation was reasonable, even though agency failed to consider one aspect of offerors' past performance, where information permitting comparative analysis of that aspect of past performance was not available and where solicitation evaluation criteria did not require that the area be considered in the evaluation of proposals.
2. Protest of evaluation of proposals is denied where the protester merely disagrees with the agency's technical judgment, and the record provides no basis to conclude that the agency's evaluation was unreasonable.
3. Allegation of evaluator bias is denied where allegation is based on one evaluator's comments concerning protester's performance under an earlier contract and those comments had no impact on the source selection decision.
4. Source selection was reasonable, despite agency error in one minor aspect of evaluation of proposals, where that error did not affect the award decision.

DECISION

Payco American Corporation protests the award of a contract to CSC Credit Services, Inc. under request for proposals (RFP) No. FCXS-F6-920006-N, issued by the General Services Administration (GSA) for debt collection services. Payco contends that the agency's technical evaluation of Payco's and CSC's proposals was unreasonable and inconsistent with

the RFP evaluation criteria, that the evaluation of Payco's proposal was tainted by agency bias, and that the source selection was unreasonable.

We deny the protest.

The RFP solicited proposals for assistance to executive branch agencies in the collection or resolution of delinquent debt. Every contract awarded was to be a fixed-price requirements contract for 1 year with four 1-year options.

The RFP contained 14 contract line items (CLIN), which divided the debt collection work according to the type and amount of debt and whether the debts were being referred to a debt collection contractor for the first or second time. The RFP permitted the award of separate contracts to provide the services covered by the various CLINs, but provided that only one award would be made for the particular kind of debt covered by any individual CLIN. Only two CLINs are at issue in this protest: CLIN No. 1, which covered first referral commercial debt of \$100 or more; and CLIN No. 4, which covered first referral consumer debt of \$3,001 or more.

Section L of the RFP included four single-spaced pages of detailed requirements for material to be set forth in technical proposals. Those requirements were divided into five areas: (1) debt management strategy, (2) management information system, (3) operational capabilities, (4) experience and business background, and (5) security and compliance to standards. Those aspects of the requested information which are relevant to the protest are identified here, but it should be noted that considerably more information was required under each area:

- (1) Regarding debt management strategy, each offeror was to include "specific, verifiable examples from past and current contracts . . . that show the offeror's success with the tactics and strategies it proposes in its plan."
- (2) Concerning operational capabilities, each offeror was to describe its physical plant facilities and demonstrate its ability to expand those facilities if needed.
- (3) With regard to experience and business experience, offerors were to list all commercial and government contracts from January 1, 1986, through December 31, 1991, and were to provide for each contract a substantial amount of

information, including the "percent of return." Offerors were also to identify the length of employment for each management employee and the "turnover rate" among collectors and nonmanagement staff.

Price proposals consisted primarily of proposed contingent fees. As explained in the RFP statement of work, the contingent fee will in many instances be added to the debt and the debtor will be required to pay it. In such cases, because the government will not be paying the fee, the amount of money realized by the government will not be directly affected by whether the contractor imposes a large or small contingent fee.¹ In other situations, the amount of the contingent fee cannot be collected from the debtor and will instead be deducted from the amount recovered. This situation arises where the debtor is unable to pay the entire amount owed or where a state statute or a particular agency's regulations prohibit collection of the contingent fee from the debtor. In these cases, the size of the contractor's contingent fee will directly affect the amount of money ultimately received by the government.²

Section M of the RFP stated that, in the evaluation of proposals, technical quality was "far more important" than cost or price. Section M noted that "the [g]overnment reserves the right to make awards based on the expectation of superior performance based on technical quality, regardless of an offeror's cost or price relative to other

¹Thus, where a \$1,000 debt is being collected and the contractor imposes a 10 percent contingent fee, the debtor would be required to pay \$1,100, of which \$1,000 goes to the government and \$100 to the contractor. If the fee were 15 percent, the debtor would have to pay more (\$1,150), but the amount recovered by the government would remain the same.

²Thus, in the example given above, if a state statute prohibited collection of the fee from the debtor, the maximum amount recoverable from the debtor would be \$1,000. A 10 percent contingent fee would lead to \$100 being retained by the contractor and \$900 being recovered by the government, while a 15 percent fee would mean that only \$850 would be turned over to the government. Similarly, even where no statute or regulation barred recovery of the contingent fee from the debtor, if the debtor were able to pay only \$600 of the \$1,000 debt, a 10 percent fee would mean that the contractor retained \$60 and the government recovered \$540; a 15 percent fee would lead to the contractor retaining \$90 and the government recovering only \$510.

offers." The sole identification of the technical evaluation factors consisted of a list of the five areas set forth in Section L: debt management strategy, management information system, operational capabilities, experience and business background, and security and compliance to standards. Section M stated that the first three factors were of equal importance; the fourth factor was less important than any of the first three but more important than the fifth. No subfactors were identified, nor was any further explanation of the evaluation criteria provided.

Twenty-four proposals were submitted in response to the RFP. Initial evaluations led to 12 of those proposals being rejected as technically unacceptable, and 1 other proposal was later withdrawn for reasons not relevant here. Written discussions were conducted with the offerors of the remaining 11 proposals. After further evaluations were conducted and consensus scores determined, the source selection evaluation board (SSEB) concluded that, of the 11 proposals, the 5 lowest ranked ones should be eliminated from consideration for award. The consensus technical scores (with 10 being a perfect score) for the remaining six proposals were as follows:

CSC	8.7
Offeror W	8.2
Payco	7.5
Offeror X	7.3
Offeror Y	6.8
Offeror Z	6.7

The rationale for the difference in scores assigned to CSC's and Payco's proposals is briefly summarized here; the issues are addressed in greater detail in our discussion of the protest contentions. Under the first technical factor, debt management strategy, the SSEB evaluators ranked CSC's proposal higher because CSC's proposal discussed its debt management strategy in greater detail and because CSC stated that it would begin using various procedures earlier in the debt collection process. The two proposals received identical scores for the second factor, the proposed management information system. Under the third factor, operational capabilities, the SSEB ranked CSC's proposal higher because it demonstrated good hiring standards and because it indicated that CSC had more expansion space available. Under the fourth factor, experience and business background, Payco's proposal was ranked lower because of past legal actions involving that offeror and because of the offeror's high turnover rate for nonmanagement employees. Payco's proposal was also ranked lower under the final technical factor, security and compliance to standards, with the difference attributed to CSC's fuller explanation of

applicable laws as well as to legal actions directed at Payco.

In its final report, the SSEB recommended more than one proposal for consideration for award as to each of the various CLINs. Because the RFP stated that only one contract would be awarded for each CLIN, this report essentially constituted a competitive range recommendation, with the selection of the one awardee for each CLIN to be made by the contracting officer, who functioned as the source selection authority (SSA).

For CLIN No. 1, the SSEB recommended that three proposals be considered for award: CSC's, Offeror W's, and Offeror X's. While recognizing that the consensus score for Payco's proposal was two-tenths of a point higher than the score assigned to Offeror W's proposal, the SSEB determined that the latter proposal was more advantageous to the government than Payco's due to Offeror W's experience and past performance relevant to the particular kind of debt covered by CLIN No. 1.

For CLIN No. 4, the SSEB recommended that all six of the proposals be considered for award. The SSEB determined that it had found:

"no basis for concluding that any particular offeror's performance would be significantly more advantageous to the [g]overnment. Although there may be some benefit to awarding this line item to the first- or second-ranked offeror vis-a-vis the other four offerors, it is the judgment of this Board that the net benefit would be marginal."

The SSA reviewed the SSEB final report and recommendations, and did not accept all of those recommendations. Specifically, the SSA decided to consider Payco's proposal for award under CLIN No. 1, notwithstanding the SSEB's recommendation to consider only the proposals of CSC, Offeror W, and Offeror X. The SSA concluded that the award decision was a choice between the proposals submitted by CSC and Payco, because CSC's proposal was the highest-ranked technically, while Payco's proposal offered the lowest price--that is, the lowest contingent fee. For CLIN No. 1, Payco's proposed contingent fee was 11.9 percent, while CSC's was 18.4 percent.

Similarly, for CLIN No. 4, the SSA concluded that the award decision would be a choice between CSC's proposal and Payco's, because, again, CSC's was the highest-ranked technical proposal, while Payco's proposed fee was lowest. For CLIN No. 4, Payco's proposed fee was 16.2 percent; CSC's was 23.9 percent.

In concluding that CSC's proposal was superior technically, the SSA essentially rejected the SSEB's finding that there was no basis to conclude that any offeror's performance would be significantly more advantageous to the government than any other's and that any benefit associated with one proposal's higher score would lead to only a marginal benefit to the government. The SSA's decision to attribute significance to the limited point-score advantage of CSC's proposal was apparently based on a calculation indicating that the types of debt covered by CLIN Nos. 1 and 4 (commercial debt of \$100 or more, and consumer debt of \$3,001 or more) have generally involved relatively large total dollar volume and have been difficult to recover. Based on recovery under comparable line items under the predecessor contract, the SSA found that only a very low rate of recovery, on the order of 1.1 percent, could be anticipated under the contracts covering the two CLINs. Because the expected recovery was quite low, while the total amounts at issue were relatively large, the SSA concluded that even a "minuscule" increase in the rate of recovery would translate into a significant increase in the dollar amount being recovered.

The SSA determined that CSC's superior debt management strategy, even if this superiority was only marginal (as the SSEB report indicated), was likely to lead to a higher rate of recovery, and that the larger amounts being recovered from debtors under a contract with CSC would lead to the government's recovering more, even if the government (rather than the debtor) had to pay CSC's higher contingent fee in every instance. In the SSA's view, CSC's methodology was likely to lead to a rate of recovery that would be at least 0.1 percent higher than Payco's, which would more than offset CSC's higher contingent fee. Accordingly, the SSA concluded that CSC's proposal, in addition to being the highest-rated technical proposal, also would bring the government the largest dollar recovery. In light of this conclusion, the SSA selected CSC for award for both CLIN No. 1 and CLIN No. 4.³

The protest challenges various aspects of the technical evaluation of Payco's and CSC's proposals; it disputes the agency's finding that CSC's proposal was likely to lead to greater recovery; and it contends that evidence in the record suggests that the agency may have been biased against Payco.

³The SSA performed a similar analysis for CLIN No. 3, but for that CLIN his conclusion was that the likelihood of higher recovery was not great enough to compensate for CSC's higher proposed contingent fee. Accordingly, the contract for CLIN No. 3 was awarded to Payco.

CHALLENGES TO THE TECHNICAL EVALUATION

Our Office will not question an agency's evaluation of proposals unless the agency deviated from the RFP evaluation criteria or the evaluation was unreasonable. See Systems Research Laboratories, Inc., B-246242.2, Apr. 21, 1992, 92-1 CPD ¶ 375. In order to establish the unreasonableness of the evaluation, it is not enough that the protester disagrees with the agency's judgment or that the protester can point to alternative methodologies available to the agency; instead, the agency's evaluation must be shown to lack a reasonable basis. See Paragon Imaging, Inc., B-249632, Nov. 18, 1992, 92-2 CPD ¶ 356. Accordingly, we consider, as to each of the challenges to the agency's technical evaluation of proposals, whether the evaluation was consistent with the RFP and whether it had a reasonable basis.

The Evaluation of Debt Management Strategy

Payco contends that its proposal merited a higher rating for debt management strategy, the first technical evaluation factor, due to what it views as the company's superior experience. The key protest issues related to the agency's evaluation under this factor are, first, the reasonableness of the agency's conclusion that CSC's proposed debt management strategy was superior to Payco's and, second, the reasonableness of the agency's failure to compare the rates of return under the offerors' predecessor contracts.

Concerning the two companies' proposed debt management strategies, Payco contends that it proposed virtually the same debt collection techniques as did CSC, and that CSC's proposal therefore did not merit a higher rating. The agency responds that, while the two proposals were similar in terms of the techniques proposed, CSC's explanation of its skiptracing methods (that is, the way in which the contractor will attempt to locate debtors) was significantly more detailed. Payco does not deny that its presentation of the skiptracing methods was considerably briefer than CSC's.

The agency also contends that CSC proposed to implement some of the skiptracing methods more promptly and for more debt accounts, and that this earlier, more widespread implementation is likely to result in higher rates of recovery. In the agency's view, all other things being equal, providing more complete information earlier to the collectors should improve a contractor's collection rate. Payco responds that implementing the skiptracing methods at issue is expensive and that it would be more cost effective to use those methods only when and where appropriate. Payco points out that cost effectiveness was one of the components of debt management strategy which Section L directed offerors to address.

In addition, Payco argues that the agency had no basis for concluding that CSC's proposed early and widespread use of certain skiptracing tools would lead to higher rates of recovery. Payco notes that CSC's rate of recovery under the predecessor contract was 1.5 percent, while Payco's was 4.5 percent,⁴ and that the two companies apparently used essentially the same skiptracing techniques under that contract as they proposed here. While recognizing that CSC and Payco were not collecting the same type of debts under the predecessor contract, Payco argues that the substantial difference in rates of return suggests that Payco is likely to recover more money than CSC, and that the agency's conclusion to the contrary lacks a reasonable basis.

The agency's response is that, as explained above, even a slight increase in recovery under CLIN Nos. 1 and 4 would compensate for CSC's higher contingent fee, and the underlying extra cost of CSC's performing the skiptracing techniques more frequently does not affect the government's amount of recovery. The agency also argues that the information regarding historical rates of return under the predecessor contract is of virtually no use in evaluating the likely success of CSC's debt management strategy. The agency considered that the two companies' work under the predecessor contract was not susceptible to meaningful comparison, because different kinds of debt were involved; in particular, the agency states that much of the debt handled by CSC was of a type for which recovery is particularly difficult. Accordingly, the agency argues that it did not have meaningful data on past performance which would permit it to compare the "track record" of the competing debt management strategies. Lacking historical data which could be meaningfully compared, the agency decided that it had to estimate the impact of CSC's debt management strategy, and it concluded that the strategy's impact, even if marginal, would make a difference with the type of debt covered by CLIN Nos. 1 and 4.

We first address the question of whether the agency's technical evaluation of the offerors' proposed debt management strategies was consistent with the RFP evaluation criteria, and then we consider whether that evaluation was otherwise reasonable.

As noted above, Section M of the RFP merely identified the five technical evaluation factors. It did not identify subfactors or commit the agency to evaluating offerors' debt management strategy through any particular method. In particular, Section M did not indicate that the agency would

⁴These figures were included in a chart issued as part of an amendment to the RFP.

assign any particular weight to the rates of return which offerors had achieved under prior contracts.

If the agency intended historical rates of return to be significant in the evaluation of proposals, one would have expected the RFP to require detailed profiles of offerors' past debt portfolios, since a relatively low rate of return for debts which are very difficult to collect is arguably more impressive than a higher rate for debts which are easier to collect. The RFP, however, required no such detailed information, and the fact that Section L of the RFP, in the provisions quoted above, requested information about past performance and historical rates of return did not require the agency to assign any particular weight to those rates in the evaluation of proposals. Accordingly, the RFP evaluation criteria left to the agency's discretion the particulars of the methodology for evaluating offerors' proposed debt management strategy, and the agency's decision not to assign weight to offerors' historical rates of return was consistent with the RFP.

Regarding the reasonableness of the agency's evaluation of the proposed debt management strategies, Payco contends that GSA acted unreasonably in concluding that CSC's proposed skiptracing strategy was superior to Payco's, since the two offerors were proposing essentially the same tools. In fact, however, Payco is simply disagreeing with the agency's judgment.

Both of the grounds for the agency's evaluations are reasonable: CSC's proposal provided more detail concerning the proposed skiptracing methods, and CSC proposed to implement several of the methods earlier in the collection process. We see no basis to reject as unreasonable an agency's higher rating for a proposal that offers more detail concerning the technical approach, and Payco does not dispute that CSC's proposal was more detailed. As to CSC's earlier implementation of some of the skiptracing tools, while Payco contends that such early use of the tools is not necessary or cost effective, the agency has concluded that CSC's approach is likely to improve rates of collection, and the agency has offered what appears to be a sound rationale for this conclusion. We have no basis to find that the agency's approach is unreasonable. Accordingly, we deny Payco's challenge to the agency's evaluation of CSC's proposed skiptracing methodology.

Concerning the use of historical rates of return, as well, we cannot conclude that GSA acted unreasonably in concluding that it could not meaningfully compare the offerors' historical collection rates. Payco does not deny that some types of debt are more difficult to collect than others, and it does not contend that GSA actually had information

available which could have provided a basis for comparing the various offerors' historical rates of return.

Instead, Payco speculates that data based on performance under prior GSA contracts or data from the Department of the Treasury's Financial Management Service could have provided external benchmarks by which to evaluate offerors' past performance. GSA does not deny that such data, if available and if sufficiently detailed, could provide a useful basis for assessing the efficacy of offerors' debt management strategies. The agency argues, however, that such information, to be useful, would have had to include extremely detailed debt portfolio profiles identifying the age, type, and size of the debts under prior contracts. Even with that information, the agency would have been required to perform a complex analysis to factor out all other variables (details of the debt portfolios as well as external factors such as the prevailing regional or national economic conditions) in order to isolate the impact of an individual offeror's debt collection methodology. There is no evidence either that sufficiently detailed debt portfolio information was available to GSA, or that, if such information were available, it would have permitted GSA to isolate the effect of each offeror's proposed methodology.

We find reasonable the agency's reluctance to rely on fragmentary data in order to engage in a potentially unreliable comparison of offerors' historical rates of return. Accordingly, it was reasonable for GSA to decline to perform a comparative assessment, based on the limited information available, regarding rates of return in the evaluation of offerors' proposed debt management strategies.

Operational Capabilities⁵

GSA assigned higher ratings to CSC's proposal than to Payco's in terms of operational capabilities largely because CSC offered more office space, when the combination of actual and potential space was considered. Payco does not deny that the combination of CSC's actual and expansion office space exceeded Payco's, nor does Payco deny that the RFP permitted GSA to rate more highly a proposal offering more actual and expansion space than one which offered less. Moreover, Payco has not shown that it was unreasonable for

⁵Although Payco initially challenged the application of the second evaluation factor, the management information system, the protester did not respond to the agency report's explanation of GSA's evaluation in this area. Accordingly, we view this aspect of the protest as abandoned. See Hampton Rds. Leasing, Inc., B-244837, Nov. 25, 1991, 91-2 CPD ¶ 490.

the agency to have such a preference. Accordingly, GSA's evaluation in this regard was both consistent with the RFP criteria and reasonable.'

Experience and Business Background

We now turn to the fourth evaluation factor, which, as noted above, was weighted less than the first three.' GSA assigned a lower rating to Payco's proposal than to CSC's due to Payco's failure to demonstrate its experience with private sector debt collection, the legal actions which had been brought against Payco, and the relatively high turnover rate for Payco's nonmanagement staff. Payco disputes each of these grounds: it contends that it has more experience than did CSC, that CSC failed to disclose a legal action brought against an affiliated company, and that nothing in CSC's proposal indicated that its turnover rate for nonmanagement staff was better than Payco's.

As to the agency's conclusion that Payco's proposal disclosed less relevant experience than did CSC's, Payco does not dispute that it provided less detail in its

'CSC's proposal also received a higher rating under this factor because GSA viewed CSC's proposed hiring practices as superior. While Payco disputes GSA's conclusion, it has not shown the agency's judgment in this regard to be unreasonable or inconsistent with the RFP. We therefore deny Payco's challenge to this aspect of the evaluation as well.

'Payco also challenges the agency's evaluation under the least important factor, security and compliance to standards. The agency's conclusion that CSC's proposal was stronger than Payco's with regard to this factor was based primarily on prior legal actions involving Payco and on CSC's fuller explication of the applicable laws. As to the legal actions, Payco contends that the agency could not properly consider those matters under the fifth evaluation factor because they were already considered under the fourth factor. We disagree. Section L's description of the information at issue under the fourth and fifth factors indicates that legal actions against an offeror could properly be viewed as relevant to both factors. As to the evaluation of proposals' discussion of applicable laws, Payco concedes that CSC's proposal addressed the applicable laws in more detail. Payco contends, however, that the agency should have focused more on other aspects of security and compliance with standards. Because this constitutes essentially mere disagreement with the agency's judgment, without a showing that the agency's judgment was unreasonable, it does not provide a basis for sustaining a protest.

proposal in this area than CSC did. As noted above in connection with evaluation of the offerors' proposed skiptracing strategies, the agency could reasonably conclude that CSC's more detailed proposal demonstrated more technical merit than did Payco's.

With respect to past legal actions, Payco's disputing GSA's assessment of the significance of prior legal actions against Payco is another instance of the protester disagreeing with the agency's judgment without demonstrating that judgment was unreasonable. We view the agency's assessment of the importance of those legal actions as a matter within the agency's discretion, and the exercise of that discretion here was reasonable. While Payco claims that CSC failed to disclose one legal action against the company, the agency responds that disclosure was not required, since that matter had not ripened into legal action at the time proposals were submitted; the matter involved only a CSC affiliate, not the offeror; and it did not concern debt collection. In this instance as well, the agency's evaluation appears reasonable.

Concerning turnover among nonmanagement staff, the agency's evaluation is more problematic. The contracting officer testified at the hearing conducted in connection with this protest that the agency's belief that CSC's proposal demonstrated lower turnover than did Payco's was based on a misreading of CSC's proposal. Essentially, the two proposals offered turnover rate information formulated in such a way that the two offerors' historical data could not be compared. Accordingly, the agency lacked a reasonable basis to conclude that CSC's proposal established superiority in this regard. We discuss below the impact of the agency's error on the reasonableness of the overall source selection decision.

BIAS

Payco contends that the record suggests the presence of agency bias against the protester. In particular, Payco notes that the chair of the SSEB wrote critical comments concerning Payco's performance under a predecessor contract on the back of her evaluation sheets. Payco points out that the comments were irrelevant to the evaluation factors under this solicitation.

In the hearing conducted in connection with this protest, an SSEB member testified that neither she nor any of the other members of the SSEB read the SSEB chair's critical comments prior to award of the contract to CSC. We note that the SSEB chair's evaluation of the proposals was not significantly different from that of the other SSEB members. The contracting officer also testified that he did not see the

SSEB chair's comments, nor was he aware of their existence, until after CSC had been selected for award. There is thus no evidence that those comments affected the evaluation of any offeror's proposal.⁸ Further, we have no basis to conclude that the SSEB chair's comments regarding Payco's performance under a prior contract reflect any bias against Payco. In the context of a bid protest, bias implies an intent to harm a party. The comments at issue here arguably are recorded on work sheets which do not correlate with the RFP evaluation criteria to which they are most directly relevant. They do not, however, evidence intent to harm Payco. In any event, to establish bias before our Office, there must be "very strong proof" that an agency acted with specific intent to harm the protester, Hill's Capitol Sec., Inc., B-250983, Mar. 2, 1993, 93-1 CPD ¶ 190, and such proof is absent here. In this case, there is no evidence of bias affecting the source selection decision, and we therefore deny this protest ground.⁹

THE "COST/TECHNICAL TRADEOFF" AND THE SOURCE SELECTION

During the course of the protest, the parties referred to a "cost/technical tradeoff" between CSC's and Payco's proposals, although the contemporaneous agency documents do not use that term. The record indicates that use of the term is inappropriate, because it suggests that CSC's higher-rated technical proposal was associated with a higher price. As explained above, the contract awarded under the RFP will lead to the government receiving funds, as the debts are collected, rather than paying the contractor, and GSA concluded that CSC's technical proposal would actually lead to a higher return to the government than would Payco's, due to the prospect of CSC's superior debt management strategy leading to a higher rate of return, notwithstanding CSC's higher commission fee. That is, CSC's proposal was viewed as superior both technically and in terms of cost or price. Accordingly, no cost/technical tradeoff was needed here, nor was one performed.

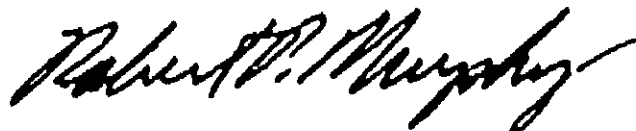
We now return to consider the impact of the agency's admitted error in the evaluation of the offerors' turnover

⁸We note that the SSEB chair did not vote in the final evaluation of proposals.

⁹Payco also alleges that bias may have caused the SSEB to recommend that Offeror W's proposal, but not Payco's, be considered for award under CLIN 1. Because the SSA rejected the SSEB's recommendation in this regard (and, indeed, eventually considered the source selection decision to be limited to CSC's and Payco's proposals), the SSEB's recommendation clearly did not prejudice Payco.

rate for nonmanagement employees. As explained above, GSA erred in finding that CSC's proposal evidenced superiority in this area. Instead, the agency had no basis to find either proposal superior in this regard. If the source selection had been based on a cost/technical tradeoff, the error committed in the evaluation of employee turnover might have affected the outcome of that tradeoff analysis. See, e.g., American Dev. Corp., B-251876.4, July 12, 1993, 93-2 CPD ¶ 49. Because, however, CSC's proposal was found to be technically superior as well as preferable in terms of cost to the government, elimination of whatever minor advantage CSC's proposal received for its perceived superiority in the area of employee turnover (a sub-element of the next to the least important evaluation factor) does not call into question the agency's source selection decision. Accordingly, we conclude that Payco was not prejudiced by the agency's error, and the error thus does not provide a basis for sustaining the protest. See Lithos Restoration Ltd., 71 Comp. Gen. 367 (1992), 92-1 CPD ¶ 379.

The protest is denied.


for James F. Hinchman
General Counsel