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**Comptroller General  
of the United States**

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

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## **Decision**

**Matter of:** Language Services Associates, Inc.

**File:** B-297392

**Date:** January 17, 2006

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Robert G. Fryling, Esq., and Brian S. Gocial, Esq., Blank Rome LLP, for the protester. G. Lindsay Simmons, Esq., J. Eric Whytsell, Esq., and April Min, Esq., Jackson Kelly PLLC, for Bowne Global Solutions II, Inc., an intervenor. Kevin M. Walker, Esq., Department of Homeland Security, United States Citizenship and Immigration Services, for the agency. Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### **DIGEST**

Protest is denied where the agency reasonably evaluated the selected vendor's quotation in accordance with the terms of the solicitation; to the extent that there were any flaws in the agency's conduct of the procurement, the protester failed to show that it was competitively prejudiced.

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### **DECISION**

Language Services Associates, Inc. (LSA) protests the issuance of a blanket purchase agreement (BPA) to Bowne Global Solutions II, Inc. (BGS) under request for quotations (RFQ) No. HSSCCG-05-Q-0014, issued by the Department of Homeland Security, United States Citizenship and Immigration Services, for interpreter services for the agency's asylum program. LSA challenges the agency's decision to issue a BPA to BGS, a vendor submitting a lower priced quotation.

We deny the protest.

### **BACKGROUND**

The RFQ, issued on July 12, 2005, contemplated the issuance of a BPA on a fixed-price basis for a period of 5 years to the "best-value" vendor which held a General Services Administration Federal Supply Schedule contract for interpretation services under Group 738 II, Special Item Number 382-2. As relevant here, the RFQ stated that the agency would require interpreters to provide telephonic monitoring or direct interpretation in the language of the asylum seeker being interviewed and

that there could be some cases in which in-person interpreter services would be needed, requiring the interpreter's physical presence at the interview site. The RFQ listed the 10 most commonly requested languages and included a list of other required languages.

In determining the "best-value" vendor, the RFQ stated that the BPA would be issued to the responsible vendor whose quotation, conforming to the RFQ, resulted in the most advantageous integration of technical evaluation factors (management approach, performance approach, and past performance) and price. The RFQ stated that the technical evaluation factors, when combined, would be considered significantly more important than price. The RFQ explained that the agency was more concerned with obtaining superior technical performance rather than the lowest overall price. However, the RFQ also explained that the agency would not issue a BPA at a significantly higher overall price to achieve only a slightly superior technical performance. Finally, the RFQ stated that the agency intended to issue the BPA without conducting discussions, except for communications conducted for the purpose of clarification. As a result, the RFQ advised a vendor to submit its quotation on the most favorable terms.

On August 3, the agency issued amendment No. 2 to the RFQ. In this amendment, the agency provided answers to 38 questions posed by vendors. One of these questions requested a percentage breakdown of the required services. The agency responded that while it had not calculated exact percentages of the work done to date, it estimated that over 90 percent of the work has involved telephonic (as opposed to on-site) interpretation services. The agency explained that it did not anticipate a significant change with respect to using on-site interpreters and that the estimates provided were based on historical percentages and were provided for pricing purposes only. The agency advised that any variation from these percentages during the performance of the BPA requirements would "not be [a] basis for an equitable adjustment." RFQ amend. 2, Question and Answer No. 6. In addition, one question asked if vendors should provide prices on a per-hour basis or on a per-minute basis. The agency responded by amending the RFQ price schedule to require that prices be provided on a per-minute basis. RFQ amend. 2, Question and Answer No. 13; Revised Price Schedule.<sup>1</sup>

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<sup>1</sup> The revised price schedule included estimated minutes for each line item, for which a vendor was to insert a fixed unit price and extended price.

Four vendors, including LSA (the incumbent contractor)<sup>2</sup> and BGS, submitted quotations (based on per-minute fixed prices as reflected in their respective price schedules) by the closing time on August 10. As relevant here, the quotations of LSA and BGS were evaluated as follows:

	LSA	BGS
Management Approach	Outstanding	Outstanding
Performance Approach	Outstanding	Outstanding
Past Performance	Outstanding	Good

Source Selection Decision Document at 2-3.<sup>3</sup>

LSA’s total evaluated price (\$[deleted]) was approximately 82 percent higher than BGS’s total evaluated price (\$[deleted]).<sup>4</sup> As relevant to this protest, BGS stated in a note at the end of its price schedule that of the estimated amount, “90% was allocated for telephonic interpretation and 10% for on-site interpretation.” BGS Price Schedule.

The agency determined that the quotations submitted by LSA and BGS contained all of the information required by the RFQ and were considered complete. However, by letter dated September 2, the agency asked BGS seven questions, characterized as “clarifications/explanations,” regarding its quotation. Letter from Agency to BGS (Sept. 2, 2005). These questions involved aspects of BGS’s technical approach (e.g., how quickly BGS could provide security clearance packets to the agency in order to ensure that the firm could meet the agency’s requirements as soon as

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<sup>2</sup> LSA has been the incumbent contractor since 2002. The agency explained that with LSA’s graduation from the Small Business Administration’s 8(a) program and with an increase in the scope of interpreter services for asylum interviews, the agency decided to conduct a competitive procurement in order to obtain the “best value” for the current requirements. The agency stated that this acquisition strategy was approved by the small business specialist. Price Negotiation Memorandum at 6.

<sup>3</sup> For the non-price evaluation factors, quotations could be rated as outstanding, good, acceptable, or unacceptable. For the past performance evaluation factor, quotations also could receive a neutral rating.

<sup>4</sup> Of the four vendors submitting quotations, BGS submitted the lowest price, while LSA submitted the highest price. The total evaluated prices of the two other vendors ranged from approximately \$[deleted] million to approximately \$[deleted] million. In addition, for context, we note that LSA quoted a fixed unit price of \$[deleted] per minute for both telephonic and on-site requirements, while BGS quoted a fixed unit price of \$[deleted] per minute for both of these requirements. LSA’s unit price is thus also approximately 82 percent higher than BGS’s unit price.

possible after issuance of the BPA) and its price (e.g., in light of the fixed-price nature of the BPA, whether BGS expected more money if the agency exceeded its estimate of 90 percent for telephonic requirements or 10 percent for on-site requirements). By letter dated September 7, BGS responded to the agency's questions. With respect to a timeframe for providing security clearance packets, BGS elaborated on information contained in its quotation, for example, [deleted]. With respect to the agency's estimate of telephonic versus on-site requirements, BGS confirmed that it priced its quotation based on the estimates provided by the agency (in amendment No. 2 to the RFQ). BGS continued by stating that it

recognizes that the 90%/10% breakdown is an estimation from the [agency] and may change. However, BGS would like to reserve the right to negotiate with the [agency] an adjustment in pricing if the amount of allotted telephonic versus on-site work varies significantly from the 90%/10% estimation.

Letter from BGS to Agency 5 (Sept. 7, 2005).

The agency concluded that BGS responded satisfactorily to the seven clarification/explanation questions.

The contracting officer, who served as the source selection authority, recognized that for the management approach and performance approach evaluation factors, the quotations of LSA and BGS both received outstanding ratings, while for the past performance evaluation factor, LSA's quotation received an outstanding rating and BGS's quotation received a good rating. The contracting officer also noted that for the 5-year performance period, LSA's quotation was approximately \$[deleted] million higher than BGS's quotation, an amount characterized by the contracting officer as "significant." Source Selection Decision Document at 3. In addition, the contracting officer noted that of the four vendors in this competition, LSA submitted the highest priced quotation. The contracting officer concluded that even though BGS's quotation was rated slightly lower for past performance than LSA's quotation, it was not in the government's interest to pay a significant price premium to LSA in order to obtain only a slightly superior technical performance. Accordingly, consistent with the terms of the RFQ, which stated that the agency would not issue a BPA at a significantly higher overall price to achieve only a slightly superior technical performance, the agency issued the BPA to BGS. Id. at 3-4.

## ISSUES AND ANALYSIS

LSA contends that BGS submitted a non-compliant quotation that should not have been eligible for the issuance of a BPA; that the agency did not reasonably evaluate BGS's past performance; and that the agency held improper discussions with BGS.

In the context of an RFQ, when an agency chooses to employ competitive procedures similar to those used in a Federal Acquisition Regulation (FAR) Part 15 negotiated procurement, and when a protest is filed challenging the outcome of the competition, we will review the record to ensure that the agency's evaluation of the vendors' submissions was reasonable and consistent with the terms of the RFQ. Computer Assocs. Int'l, Inc.--Recon., B-292077.6, May 5, 2004, 2004 CPD ¶ 110 at 3; COMARK Fed. Sys., B-278343, B-278343.2, Jan. 20, 1998, 98-1 CPD ¶ 34 at 4-5. While the provisions of FAR Part 15 do not directly apply here, we will analyze LSA's contentions by the standards applied to negotiated procurements. Labat-Anderson, Inc., B-287081 et al., Apr. 16, 2001, 2001 CPD ¶ 79 at 5-6; Digital Sys. Group, Inc., B-286931, B-286931.2, Mar. 7, 2001, 2001 CPD ¶ 50 at 6.

### BGS's Alleged Non-Compliant Quotation

LSA argues in its comments on the agency report that BGS's quotation is non-compliant because BGS failed to acknowledge amendment No. 2 to the RFQ. However, LSA's position is not supported by the record.

The record shows, and the agency does not dispute, that it did not include a copy of BGS's acknowledgment of amendment No. 2 to the RFQ in its report responding to LSA's protest. In its supplemental report responding to LSA's allegation, as raised in the protester's comments, the agency explained that it received from counsel for BGS during the pendency of this protest a copy of the referenced amendment showing that it was signed on August 4, 2005 by BGS's Director of Federal Language Services and a copy of an August 4 e-mail from this same BGS corporate official referencing that BGS had received amendment No. 2 with the answers to its questions and with the additional information attached, *i.e.*, the revised price schedule requiring prices to be submitted on a per-minute basis, as opposed to on a per-hour basis, and stating that, as requested, a signed copy of the amendment was attached to the e-mail. Supplemental Agency Report, attachs. 1, 2. The agency could not verify when these documents, which apparently had been saved under the contracting specialists' user profile in an archive folder, were received due to the loss of data during a scheduled information technology system upgrade. The agency stated that attempts to recover the missing documents were not successful. Supplemental Agency Report at 3, 7 n.9.

The agency nevertheless maintains that even assuming, *arguendo*, that BGS did not actually acknowledge amendment No. 2 to the RFQ, BGS constructively acknowledged this amendment when it submitted prices on a per-minute basis, as

required by the amendment, and when it referenced in its quotation the agency's estimate that 90 percent of the requirements were for telephonic interpretation and 10 percent of the requirements were for on-site interpretation.

As a general rule, a vendor's failure to acknowledge a material amendment renders the quotation unacceptable and such quotation may not form the basis for the issuance of a BPA. However, an amendment may be constructively acknowledged where the quotation itself includes one of the essential items appearing only in the amendment. See, e.g., Avalotis Painting Co., Inc., B-261481, Aug. 24, 1995, 95-2 CPD ¶ 84 at 2-3; Childrey Contract Servs., Inc.; Orkin Exterminating Co., B-258653, B-258653.2, Feb. 9, 1995, 95-1 CPD ¶ 60 at 6 (discussion of constructive acknowledgment of an amendment in the context of sealed bid procurements).

We agree with the agency that when BGS priced its quotation on a per-minute basis, as required by amendment No. 2 to the RFQ, and when BGS referenced in its quotation the agency's numerical estimates of the telephonic and on-site requirements, as reflected in the amendment, BGS did, in fact, constructively acknowledge amendment No. 2.<sup>5</sup> We also point out that in pricing its quotation on a per-minute basis and in referencing the agency's estimates in its quotation, BGS submitted a quotation that complied with the material requirements of amendment No. 2. On this record, we have no basis to question the reasonableness of the agency's position that BGS submitted a quotation that was in accordance with the terms of the RFQ.

#### Evaluation of BGS's Past Performance

LSA challenges the agency's assignment of a "good" rating to BGS's quotation for the past performance evaluation factor, contending that the agency failed to reasonably assess whether BGS's past performance was for services similar in size, scope, and complexity to the current requirements. The essence of LSA's argument is that since BGS's record of past performance primarily involves on-site, as opposed to telephonic, interpretation services, which is the opposite of the requirements of this procurement, the agency assigned an unreasonably high rating to BGS's quotation in the area of past performance.

The RFQ required a vendor to provide a list of references to establish previous relevant experience in performing technical projects similar in size, scope, and complexity to the current requirements.<sup>6</sup> The RFQ required a vendor to cite not

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<sup>5</sup> We note that in its supplemental comments on the supplemental agency report, LSA does not address or otherwise rebut the agency's position that BGS constructively acknowledged the referenced amendment. Protester's Supplemental Comments at 8-9.

<sup>6</sup> The government estimate for this procurement was \$31.6 million. RFQ ¶ 2.3.

fewer than three, but not more than five, projects performed as a prime contractor within the last 5 years, with a minimum of one project being with the federal government. Past performance questionnaires were to be completed by a vendor's project references. The RFQ stated that under the past performance evaluation factor, the relevance of the vendor's experience (*i.e.*, the degree of relevance to the requirements of the RFQ based on similarity in size, scope, complexity, technical difficulty, contract type, and period of performance) and the quality of a vendor's past performance (*i.e.*, the vendor's record of providing high quality services of a similar nature in a manner that ensured maximum quality, cost effectiveness, timeliness of performance, project management, and overall client satisfaction) would be considered. RFQ ¶ 5.5.1.4. As relevant here, the RFQ defined a "good" rating as assigned to a vendor's quotation for the past performance evaluation factor as indicating that the vendor's performance fully exceeded many of the contract requirements and resulted in a high level of efficiency, productivity, and quality, and that there was very little risk anticipated with performance or in terms of a lack of customer satisfaction. RFQ ¶ 5.5.1.4.1.

BGS submitted past performance information for six contracts, all of which were performed within the last 5 years. The two primary contracts evaluated by the agency involved BGS's work for the Department of Justice, Executive Office for Immigration Review (EOIR).<sup>7</sup> Past performance questionnaires were completed for these EOIR contracts by the same EOIR contracting official.

Under the first EOIR contract, awarded in May 2004 and with a total value of approximately \$89 million, BGS reported that it provides on-site interpretation services for the immigration courts. (BGS has been the incumbent contractor for

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<sup>7</sup> BGS also provided information for three other contracts under which it provided telephonic interpretation services; these contracts were valued, on a yearly basis, at \$500 (Department of Homeland Security, Asylum Office), \$1,000 (Department of Homeland Security, Bureau of Customs and Border Patrol), and \$43,000 (American Airlines). For two short-term contracts, the asylum office reference rated BGS's performance in seven relevant survey question areas (six areas were considered "not applicable") as "outstanding," noting that BGS identified and made available on short notice (when four other interpretation services firms could not) a qualified Fijian interpreter. (In its past performance evaluation, the agency here noted that, based on the asylum office reference, BGS fully met the requirements of the asylum office's short-term contracts.) The customs and border patrol reference rated BGS's performance as "outstanding" in all 13 survey question areas, although it commented that BGS needed to respond sooner when called upon to provide interpretation services. BGS also provided information for one contract, with no monetary value listed, for document translation services for the Defense Intelligence Agency.

these EOIR requirements since 1986.) BGS has provided linguists in over 360 languages, many of which are reported to be rare or rarely spoken in the United States. In terms of relevance to the current requirements, BGS stated that because it maintains a large, qualified interpreter pool for this EOIR contract, it would have qualified interpreters ready to perform the current requirements. The reference for this EOIR contract reported that BGS provided on-site and telephonic interpreter services for the immigration courts and described these requirements as “difficult” (as opposed to “routine”). In 13 survey question areas involving quality of service, project management, timeliness of performance, and cost effectiveness, the reference assigned eight “outstanding” and five “good” ratings to BGS. The reference stated that BGS had an effective and cooperative management team and that there were no major weaknesses in BGS’s performance, commenting that interpreters not showing up or being late made up only a small percentage of the thousands of orders placed each year for interpreter services. The EOIR reference also commented that one of the biggest challenges for BGS has been the [deleted]. The reference reported that EOIR would award another contract to BGS, noting that this contract is very demanding in that BGS must provide a qualified court interpreter for any language at any location nationwide when ordered by the government and that BGS does a “great” job of meeting EOIR’s requirements. First EOIR Reference for BGS’s On-Site Interpretation Services Contract.

Under the second EOIR contract, awarded in September 2004 and valued at approximately \$187,000 per year, BGS reported that it provides telephonic interpretation services for immigration hearings in any language. Again, in terms of relevance to the current requirements, BGS stated that because it maintains a large, qualified interpreter pool for this EOIR contract, it would have qualified interpreters ready to perform the current requirements. The reference for this EOIR contract described these telephonic interpreter services provided by BGS for the immigration courts as “difficult,” and for the same 13 survey questions in the areas listed above, the reference assigned 11 “outstanding” and 2 “good” ratings to BGS. The reference reported that immigration courts on the West Coast had experienced some technical difficulties after BGS’s normal working hours, which were based on Eastern Standard Time. The reference stated that EOIR would award another contract to BGS, noting that BGS has a “great” network of interpreters and that its [deleted] system [deleted] is very effective; the reference also stated that BGS’s management team is very responsive. Second EOIR Reference for BGS’s Telephonic Interpretation Services Contract.

The contemporaneous evaluation record shows that in terms of the relevance of BGS’s past performance, the agency noted that the past performance references completed for BGS were all based on immigration-related work. The agency determined that the requirements of BGS’s larger dollar value EOIR contract, as discussed above, were “very similar” to the current requirements with respect to the size, duration, complexity, and technical language requirements. However, the agency also recognized that BGS’s larger dollar value EOIR contract was mainly for

on-site interpretation services, with telephonic interpretation being a much smaller need under that contract. The agency noted that the current requirements are the reverse, with the primary need being for telephonic interpretation and only occasional on-site interpretation. In addition, the agency recognized that BGS's EOIR contract for telephonic interpretation services was much smaller in scope than the current requirements. As a result, the agency concluded that there was some risk of unsuccessful performance by BGS if the infrastructure to provide large-scale telephonic interpretation was not in place to meet the agency's needs. In terms of the quality of BGS's past performance, the agency pointed out that the EOIR reference (again, the same individual completed both past performance questionnaires for BGS's EOIR contracts) rated BGS positively for its network of interpreters and its system [deleted]; that the EOIR reference noted that BGS's timing was effective and its management was responsive; and that the EOIR reference gave BGS high praise for meeting the requirements for on-site interpretation. The agency noted that the EOIR reference reported experiencing some technical difficulties in its West Coast courts when services were required from BGS after the firm's normal working hours, which were based on Eastern Standard Time, and that BGS had some difficulties in providing [deleted]. BGS's Past Performance Evaluation, Technical Evaluation Team Report, Aug. 26, 2005, at 11-12.

Although LSA challenges the agency's evaluation of BGS's quotation in the area of past performance, the contemporaneous evaluation record shows that despite the large number of "outstanding" past performance survey ratings received from BGS's references, the agency nevertheless downgraded BGS's quotation under the past performance evaluation factor by assigning the quotation a "good," not an "outstanding," rating due to the differences between BGS's other contract requirements and the requirements being competed here, as discussed above. While LSA argues that in these circumstances BGS's quotation should have been downgraded even further to an "acceptable" rating for the past performance evaluation factor, we conclude that the agency reasonably exercised its discretion in evaluating BGS's quotation after giving meaningful consideration, as reflected above, to the past performance information provided by BGS in its quotation and to the information reported by BGS's past performance references in terms of the relevance and quality of BGS's past performance. On this record, we conclude that the agency reasonably evaluated BGS's record of past performance in accordance with the terms of the RFQ.

## Price Assumptions<sup>8</sup>

LSA complains about the price assumptions in BGS's quotation and contends that had it been aware of the price assumptions used by BGS, it would have prepared its quotation using these same assumptions and it could have lowered its price.<sup>9</sup> In this regard, LSA submitted a declaration from its executive vice president and general counsel. LSA states that it prepared its quotation on the assumption that the 90 percent/10 percent estimated split between telephonic and on-site interpretation services was an estimate only, as represented in amendment No. 2 to the RFQ, and that LSA would bear the risk of the estimate being inaccurate. LSA states that had it known that it would be entitled to seek an equitable adjustment for costs associated with on-site interpretation services being greater than the agency's estimate of 10 percent,<sup>10</sup> "the cost assumptions underlying our quote would have changed and LSA would have submitted a lower-cost quote." LSA then states that it prepared its quotation on the assumption that prices were to be based on a per-minute basis, and

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<sup>8</sup> The RFQ required a vendor to provide a comprehensive narrative discussion of all of the assumptions and constraints used in developing its quotation, including a complete explanation of all proposed prices. RFQ ¶ 4.9.6.

<sup>9</sup> Despite the agency's characterization of the questions posed to BGS as "clarifications," LSA maintains that the agency conducted improper discussions with BGS which afforded only this vendor an opportunity to provide supplemental information to the agency to establish the acceptability of its quotation. LSA argues that it was improperly denied the same opportunity. However, we have long held that the "acid test" for deciding whether discussions have been held is whether it can be said that a vendor or an offeror was provided the opportunity to revise or modify its quotation or proposal. National Beef Packing Co., B-296534, Sept. 1, 2005, 2005 CPD ¶ 168 at 11. In this case, the communications that took place between BGS and the agency do not appear to have led to a material revision of the vendor's quotation; in any event, these communications had no effect on the acceptability of BGS's quotation and BGS's competitive position remained the same.

<sup>10</sup> LSA also contends that BGS's quotation is non-compliant with the terms of the RFQ because BGS, in response to one of the agency's clarification/explanation questions, reserved the right to negotiate an equitable adjustment which, according to LSA, was prohibited by the language of amendment No. 2 to the RFQ, as set forth above. We disagree with LSA's contention because the mere reservation of the right to ask for an adjustment--a request that the agency, consistent with the terms of amendment No. 2 to the RFQ, could decline--is not equivalent to the reservation of the right to receive an adjustment. Jantec, Inc., B-292668, B-292668.2, Nov. 6, 2003, 2003 CPD ¶ 222 at 9-10. Accordingly, in these circumstances, we conclude that BGS's reservation is not legally objectionable.

had it known that it could base its prices on a [deleted],<sup>11</sup> “the cost assumptions underlying our quote would have been significantly changed and LSA would have submitted a lower-cost quote.” Declaration of LSA’s Executive Vice President and General Counsel, Nov. 17, 2005, ¶¶ 3-7.

We will not sustain a protest absent a showing of competitive prejudice, that is, unless the protester demonstrates that, but for the agency’s actions, it would have a substantial chance of receiving award. McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; see Statistica, Inc. v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996). Here, LSA, which submitted a quotation that was priced approximately 82 percent higher than BGS’s quotation over the 5-year performance period, has failed to establish that it was competitively prejudiced. LSA has provided no more than bare statements that if it had been aware of the price assumptions used by BGS, it would have lowered its price. LSA does not provide any specific explanation about how it could have reduced the substantial monetary differential between its quotation and BGS’s quotation such that the agency could have determined that LSA’s quotation represented the “best value” to the government. See, e.g., MCI Constructors, Inc., B-274347, B-274347.2, Dec. 3, 1996, 96-2 CPD ¶ 210 at 6.

In this respect, the record shows that all parties to this protest—LSA, BGS, and the agency—believed that it was acceptable for vendors to include, as described in the assumptions and constraints portion of their respective quotations, supplemental charges and fees above their quoted fixed unit prices. (The prices as evaluated under the RFQ apparently did not include those extra charges and fees.) Although LSA focuses on the assumptions made by BGS, the agency points out the assumptions included in LSA’s quotation. For example, LSA stated that there would be an extra charge of \$[deleted] per minute if third-party calls went above 25 percent of the total call traffic in a given period, with history showing that this happens approximately 10 percent of the time, and a charge of an additional 25 percent for high risk assignments. In our view, it is not clear what effect the assumptions made by either of these vendors would have on the price ultimately paid by the government based on actual performance.<sup>12</sup> In these circumstances, the cost of performance to the government will vary depending on the actual task orders issued

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<sup>11</sup> In the assumptions and constraints portion of its quotation (which was not part of its price schedule), BGS explained that billings for “on-site” interviews (not telephonic interviews) would be charged at a [deleted]. The charges associated with these on-site time increments would apply to only 10 percent of the agency’s requirements.

<sup>12</sup> Under the BPA, “calls,” i.e., task orders, will be placed against the BPA; funding will be provided through individual calls and delivery destination and schedule will be specified in each call. BPA ¶¶ 2.4, 2.7-2.8.

and, in large measure, the selected vendor's efficiency in performing the resulting tasks. Geo-Centers, Inc., B-276033, May 5, 1997, 97-1 CPD ¶ 182 at 11.

On this record, where both BGS and LSA appear to have been treated equally in that they were permitted to quote pricing structures that deviated from the RFQ's per-minute framework, and in light of the significant price differential between the two quotations (that is, LSA's prices being approximately 82 percent higher than BGS's prices), and in the absence of a persuasive explanation of how LSA would have substantially narrowed that price differential were it to have been made aware that a pricing structure such as BGS's was permitted, we conclude that, even if there were flaws in the agency's conduct of the procurement, LSA has failed to show that it was competitively prejudiced.

The protest is denied.<sup>13</sup>

Anthony H. Gamboa  
General Counsel

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<sup>13</sup> LSA has raised a number of collateral issues that we have considered and find to be without merit; these collateral issues do not warrant detailed analysis or discussion.