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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: GC Services Limited Partnership

File: B-298102; B-298102.3

Date: June 14, 2006

James J. McCullough, Esq., Deneen J. Melander, Esq., and Steven A. Alerding, Esq., Fried, Frank, Harris, Shriver & Jacobson LLP, for the protester.

Charles R. Marvin, Jr., Esq., Sharon A. Jenks, Esq., and Carol F. Westmoreland, Esq., Venable LLP, for The CBE Group, Inc.; Scott M. Heimberg, Esq., Thomas P. McLish, Esq., and Andrea T. Vavonese, Esq., Akin Gump Strauss Hauer & Feld, LLP, for Linebarger Goggan Blair & Sampson, LLP; and William L. Walsh, Jr., Esq., Scott Hommer III, Esq., Peter A. Riesen, Esq., and Keir X. Bancroft, Esq., Venable LLP, for Pioneer Credit Recovery, Inc., the intervenors.

Richard M. Sudder II, Esq., H.R. Roberson, Esq., and Lori R. Larson, Esq., Internal Revenue Service, and Thedlus L. Thompson, Esq., General Services Administration, for the agencies.

Edward Goldstein, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's challenge to agency's technical evaluation of its quotation in response to solicitation for private debt collection services is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

GC Services Limited Partnership protests the issuance of task orders to The CBE Group, Inc., Pioneer Credit Recovery, Inc., and Linebarger Goggan Blair & Sampson, LLP under request for quotations (RFQ) No. TIRNO-05-Q-00187, by the Department of the Treasury, Internal Revenue Service (IRS), for private debt collection services. GC Services challenges the IRS's evaluation of its quotation, the evaluation of Linebarger's quotation, as well as the IRS's alleged failure to make a proper affirmative determination of responsibility for Linebarger.

We deny the protest in part and dismiss it in part.

BACKGROUND

On October 22, 2004, Congress enacted the American Jobs Creation Act (the “Act”), which, in relevant part, authorizes the IRS to contract with private debt collection firms to assist with the recovery of outstanding federal tax debts. See Pub. L. No. 105-357, Title VIII, Sec. 881(a), codified at 26 U.S.C. § 6306. Towards this end, the Act provides that the IRS may allow private debt collection firms to retain, as a fee for their services, up to 25 percent of the amounts that they collect for the government. Id. In implementing the provisions of the Act, the IRS has adopted a two-phase approach. The first phase, the “limited implementation phase,” provides for placing only a small number of tax debt accounts with a limited number of private debt collection agencies—effectively a pilot program. Agency Report (AR) at 2. Provided this limited phase proves successful, the IRS “will launch into full implementation of its program.” Id. At issue in this case is the IRS’s issuance of debt collection task orders to three firms for the first phase of its private debt collection program.

On October 15, 2005, the IRS issued the subject RFQ for private debt collection services, which limited the field of competition to vendors holding Federal Supply Schedule (FSS) contracts under the General Services Administration’s (GSA) “Financial and Business Solutions” schedule, Debt Collection Services schedule (GSA FABS Schedule 520, Special Item Number (SIN) 4, Debt Collection). RFQ at 2. The RFQ contemplated the issuance of “fee-for-service” task orders to three vendors, each for a base period of 1 year, plus 1 option year. Id. The IRS indicates that the combined contract value for the three task orders is between \$20 million and \$25 million. Contracting Officer’s (CO) Statement at 1.

Under the terms of the RFQ, vendors were required to submit quotations with two separate volumes. Volume 1, which was limited to 45 double-spaced pages, was to contain information addressing three technical evaluation factors, listed in descending order of importance: (1) relevant experience and past performance, (2) technical approach, and (3) management plan. RFQ at 56-57. In addressing these factors, vendors were cautioned that their quotations “SHALL NOT MERELY OFFER TO PERFORM WORK IN ACCORDANCE WITH THE STATEMENT OF WORK, BUT SHALL OUTLINE THE ACTUAL WORK PROPOSED AS SPECIFICALLY AS PRACTICAL.” RFQ at 55.

Volume 2 was reserved for vendors’ completed pricing schedules, which divided pricing between debt collection commission fees—based on dollars actually collected—and administrative resolution fees. RFQ at 20. Vendors were to specify their commission fees for tax debt accounts (1) under \$1,500; (2) between \$1,501 and \$5,000; (3) between \$5,001 and \$10,000; and (4) greater than \$10,000. Id. They were further required to specify a fee for handling administrative resolutions, which involves closing a collection case without payment for reasons such as death of the

taxpayer, and for handling administrative resolutions due to an installment agreement exceeding 60 months. Id.

Regarding the first four fee categories, the RFQ provided the following “target rates” that the IRS believed to be realistic commission fees: (1) 24 percent; (2) 23 percent; (3) 22 percent; and (4) 21 percent. AR at 3; RFQ at 20. Vendors quoting fees other than the target rates were required to provide supporting rationale “as to why a rate other than the target rate was proposed.” RFQ at 55.

The RFQ further explained that the selection process would be comprised of three steps. Under the first step, the IRS would confirm whether vendors had existing FSS contracts. Under the second step, the IRS would evaluate vendors based on the technical evaluation factors, rank the vendors, and determine the “most highly qualified.” RFQ at 55. As the third step, which included only the vendors determined to be the most highly qualified, the IRS would negotiate with the selected vendors the same commission and administrative resolution fees—“the same fee for all awardees for each line item.” Id. If the IRS was unable to reach agreement on a vendor’s fee, the RFQ indicated that the vendor would be eliminated from further consideration. Id.

Under the relevant experience and past performance factor, vendors were to demonstrate their “relevant experience (i.e., similar in nature, scope and size) in the collection of debt owed . . . a wide variety of collection experience, on a nationwide basis,” as well as “a level of accomplishment in a competitive environment.” RFQ at 56. Within this information, each vendor was required to identify a minimum of five projects/customers, within the past 5 years, demonstrating its “nationwide ability to collect debt,” “its ability in collecting a broad range (various types) of debt, and its success in a competitive collection environment.” Id. Debt recovery rates were also to be evaluated under this factor; vendors therefore were required to include the recovery rates for each project cited. Moreover, the RFQ indicated that “[p]roposed key personnel” would be evaluated based on “their recent experience in managing collection contracts/projects similar in nature, scope and size, and on the success of those projects, based on personnel turnover rates and recovery rates.” In this regard, the RFQ stated: “Note. The Project Manager is the key personnel position.” Id.

With regard to the technical approach factor, the RFQ provided for evaluation of a vendor’s approach to meeting the requirements of the IRS’s debt collection program and required each vendor to specifically address its “use of new versus experienced collectors; its monitoring and compliance programs, and its ability to provide for Federal Government monitoring of its systems.” RFQ at 57. Vendors were required to describe how they intended to “meet and maintain the requirements for physical security and data integrity standards for taxpayer information” and how they would “meet and maintain physical security, data integrity, communications security, and personnel security.” Id. The RFQ also stated that the IRS would evaluate the

vendors’ “ approach to meeting privacy and safeguard requirements,” and required vendors to provide “specific examples of implemented [Federal Information Security Management Act (FISMA)] compliant security controls” as well as “compliance with Federal Privacy Act requirements.” Id.

Under the third factor, management plan, the RFQ indicated that the IRS would evaluate how vendors proposed to “organize, staff, and manage” the requirements, as well as their approach to “the Complaint Process.” RFQ at 57. Vendors were required to describe their training plan, which was required to include “training of staff on all applicable Federal, State and local laws and regulations, the Taxpayer Bill of Rights, and IRS Policies and Procedures, and training provided for interaction with taxpayers.” Id. The RFQ also indicated that the IRS intended to evaluate each vendor’s approach to “initial training versus refresher training.” Id.

The IRS received 33 responsive quotations by the November 15 RFQ closing date. In evaluating vendors’ quotations, the IRS developed “Evaluation Scoring Sheets” for the purpose of allowing evaluators to score each quotation under the three evaluation factors. AR, Tab K, Evaluation Plan. The scoring sheets subdivided the three evaluation factors into various discrete subfactors. Under the “relevant experience and past performance” factor, the scoring sheet included seven subfactors, “technical approach” was comprised of seven subfactors, and “management approach” was divided into five subfactors. Evaluators assigned one of the following adjectival ratings for each subfactor:

Adjectival Rating	Definition
Exceptional Low Risk	Proposal demonstrates a good understanding of the Government’s objectives and contains an approach that exceeds the solicitation requirements. Has one or more strengths that will benefit the Government. High probability of success with an overall low degree of risk in meeting the Government’s requirements
Acceptable Moderate/High Risk	Proposal demonstrates an acceptable understanding of the Government’s objectives and contains an approach that meets the solicitation requirements. Fair probability of success with overall acceptable degree of risk in meeting the Government’s requirements.
Marginal Unknown Risk	Proposal demonstrates a minimal understating of the Government’s objectives. Overall quality of approach cannot be determined because of errors and/or omissions which may be capable of being corrected without a major rewrite or revision of the proposal
Unacceptable High Risk	Proposal fails to demonstrate an understanding of the Government’s objectives [and] contains major errors and/or omissions that cannot be corrected without a major rewrite or revision of the proposal. Presents an unacceptably high degree of risk in meeting the Government’s requirements. Proposal is not acceptable for award.

AR, Tab K, Evaluation Plan, Evaluation Scoring Sheets.¹

Under the IRS's evaluation scheme, each adjectival rating had a point value: exceptional (low risk) – 4 points; acceptable (moderate risk) – 3 points; marginal (unknown risk) – 2 points; and unacceptable (high risk) – 0 points. Based on this system, the highest raw score a vendor could receive was 76 points.² To account for the differing relative weights of the evaluation factors, the IRS applied the following weighting multiple for each technical evaluation factor: relevant experience and past performance – weighted by a factor of 4.5, technical approach – weighted by a factor of 3.0, and management approach – weighted by a factor of 2.5. Thus, 260 points was the highest total score a vendor could receive, assuming it received an exceptional rating under each subfactor.³

After reaching consensus in evaluating the 33 vendors' quotations under the technical factors and then ranking the vendors by their technical scores, the IRS evaluated the proposed fees of the three vendors with the highest overall technical scores: The CBE Group, Pioneer Credit Recovery, Inc., and Linebarger, which had [deleted] (250 points). These firms accepted the IRS's target fees for general collection activities and the IRS was further able to negotiate the same proposed fee of \$100 per administrative resolution with each of these firms.⁴ As a consequence, the IRS issued task orders to these firms under their respective FSS contracts on March 8, 2006.

¹ Here, and in many other instances, the record refers to the vendors' responses to the request for quotations as proposals, rather than quotations.

² The 76 maximum score is based on the following: relevant experience and past performance – 7 subfactors multiplied by 4 points (maximum number of points for exceptional rating) for 28 points, technical approach – 7 subfactors multiplied by 4 points for 28 points, and management approach – 5 subfactors multiplied by 4 points for 20 points.

³ The 260 maximum score is the sum of the following: 126 points for relevant experience and past performance (28 maximum raw score multiplied by the 4.5 weighting factor); 84 points for technical approach (28 maximum raw score multiplied by the 3.0 weighting factor); and 50 points for management approach (20 maximum raw score multiplied by the 2.5 weighting factor).

⁴ The administrative resolution fees quoted by the three firms were [deleted]: (1) The CBE Group quoted [deleted] per resolution; Pioneer also quoted [deleted] per resolution; and Linebarger quoted [deleted] per resolution. AR, Tab L, Source Selection Statement.

Based on the IRS's evaluation of its quotation, GC Services was ranked ninth overall with a total score of 219.5 points. [Deleted]. After learning of the agency's decision, GC Services filed this protest.

ANALYSIS

In its protest, GC Services challenges the IRS's evaluation of its quotation in every instance where it received other than an "exceptional" rating for a technical evaluation subfactor under each of the three technical evaluation factors -- relevant experience and past performance, technical approach, and management plan. GC Services also argues that the IRS's evaluation of Linebarger's quotation was unreasonable where the IRS rated Linebarger as equal or superior to GC Services under numerous technical evaluation subfactors, and that the evaluation record reflects disparate treatment in the IRS's evaluation of Linebarger and GC Services.⁵ As a final matter, GC Services contends that the IRS failed to make a proper affirmative determination of responsibility for Linebarger.

I. Technical Evaluation of GC Services

The FSS program, directed and managed by GSA, gives federal agencies a simplified process for obtaining commonly used commercial supplies and services. FAR § 8.402(a). Where, as here, an agency issues an RFQ under FAR Subpart 8.4 and conducts a competition (see FAR § 8.405-2), we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. See RVJ Int'l, Inc., B-292161, B-292161.2, July 2, 2003, 2003 CPD ¶ 124 at 5. In a competitive FSS procurement, it is the vendor's burden to submit a quotation that is adequately written and establishes the merits of the quotation. Verizon Fed., Inc., B-293527, Mar. 26, 2004, 2004 CPD ¶ 186 at 4; Godwin Corp., B-290291, June 17, 2002, 2002 CPD ¶ 103 at 4. In reviewing an agency's technical evaluation of vendor submissions under an RFQ, we will not reevaluate the quotations; we will only consider whether the agency's evaluation was reasonable and in accord with the evaluation criteria listed in the solicitation and applicable

⁵ During the development of the protest, our Office dismissed GC Services' protest of the IRS's evaluation of The CBE Group and Pioneer for failing to state a valid basis of protest. GC Services had argued that it was not possible for these vendors to have submitted quotations with the level of detail that the IRS required of GC Services and that the evaluation was therefore unequal. Protest, Mar. 17, 2006, at 14. Because GC Services failed to provide any evidence or details supporting its contentions, we concluded that GC Services' bare allegations were nothing more than speculation, which did not meet the standard for a legally sufficient protest. Science Applications Int'l Corp., B-265607, Sept. 1, 1995, 95-2 CPD ¶ 99 at 2-3.

procurement statutes and regulations. American Recycling Sys., Inc., B-292500, Aug. 18, 2003, 2003 CPD ¶ 143 at 4. The protester's mere disagreement with the agency's judgment does not establish that an evaluation was unreasonable. Hanford Env'tl. Health Found., B-292858.2, B-292858.5, Apr. 7, 2004, 2004 CPD ¶ 164 at 4. Based on our review of the record here, GC Services' challenges to the IRS's evaluation of its quotation amount to little more than disagreement with the agency's judgments and thus fail to establish that the IRS's evaluation was unreasonable.

As a preliminary matter, we note that, although challenged by GC Services, we need not address the IRS's evaluation of each subfactor for which GC Services received other than a rating of "exceptional" since GC Services was not prejudiced by any alleged errors in the evaluation under the subfactors not addressed in our decision. Based on the point scoring system employed by the IRS, five vendors in addition to the three awardees had total scores higher than GC Services, and GC Services has only challenged the IRS's evaluation of one of the awardees, Linebarger. Of the three awardees, Linebarger received [deleted] score of 250 points. The total evaluated point scores for the vendors ranked fourth through eighth, between Linebarger and GC Services, were as follows: (4) 241 (5) 240, (6) 234.5, (7) 233.5, and (8) 223.5. AR, Tab L, Source Selection Statement at 3. Even assuming that GC Services received the highest ratings for every subfactor not addressed by our Office, the highest possible total score GC Services could have received would have been 233.5 points.⁶ With a total score of 233.5 points, GC Services would have been tied with the seventh ranked vendor--not one of the "most highly qualified" firms for consideration by the IRS--and thus, without a reasonable possibility of award. See Joint Mgmt. & Tech. Servs., B-294229, B-294229.2, Sept. 22, 2004, 2004 CPD ¶ 208 at 7; Citrus College; KEI Pearson, Inc., B-293543 et al., Apr. 9, 2004, 2004 CPD ¶ 104 at 7 (prejudice is an essential element of every viable protest, and where none is shown or otherwise

⁶ The score of 233.5 represents GC Service's total score based upon our decision denying its protests with regard to seven subfactors. Specifically, by denying GC Services' challenge to its acceptable rating for one of the subfactors under the relevant experience and past performance, the highest possible raw score GC Services could have received under this factor was 27 points, for a total score of 121.5 when multiplied by the applicable weighting factor (4). Under the second factor, technical approach, we deny each instance (a total of four) where GC Services challenges its "acceptable" rating as being too low, thus its raw score of 24 points, and total score of 72 points when multiplied by the weighting factor (3), remained unchanged for this factor. Under the third factor, management plan, we deny GC Services' challenges to its "marginal" ratings under two subfactors; thus the highest possible raw score GC Services could have received under this factor was 16 points, which, when multiplied by the weighting factor (2.5), resulted in a total score of 40 points. When the total scores of the three factors are added together, they equal 233.5 points.

apparent, protest will not be sustained, even if the agency's actions may arguably have been improper).

The specifics of the IRS's technical evaluation of GC Services' quotation are discussed below.

A. Relevant Experience and Past Performance Factor

Under this factor, GC Services received "exceptional" ratings for four subfactors and ratings of "acceptable" for three of the subfactors. GC Services challenges each of its "acceptable" ratings, arguing that it should have received "exceptional" ratings under these subfactors as well. We discuss below, and deny, GC Services' challenge to its "acceptable" rating under the subfactor relating to the experience of proposed key personnel.⁷

The subfactor at issue provided as follows:

Proposed key personnel have recent experience in managing collection contracts/projects similar in nature, scope and size, and on the success of those projects, based on personnel turnover rates and recovery rates. (resumes and proposal).

AR, Tab K, Evaluation Plan, Evaluator Scoring Sheets. In evaluating vendors' submissions under this subfactor, the IRS considered the experience of vendors' key personnel "based on personnel turnover rates and recovery rates."⁸ Id. GC Services

⁷ The RFQ instructed each vendor to identify a minimum of five projects/customers for the purpose of providing references and provided for the references to submit questionnaires addressing the vendor's past performance. When more than five reference questionnaires were received for a vendor, the IRS "randomly selected five references." Supplemental AR at 11. The IRS indicates that it received 12 references for GC Services and randomly selected 5. However, the record reflects that of the five references selected, two were submitted by the same company, [deleted], for the same project, 4 days apart, with the second [deleted] reference indicating that it "revised" and "supersedes" the first. Thus, it appears that the IRS mistakenly considered only four references in its evaluation of GC Services. This error, however, could not have prejudiced GC Services because, as more fully discussed in the decision, even if it had received the highest rating under those experience and past performance subfactors to which its references were relevant--the subfactor addressed in our decision under the experience and past performance factor did not involve a consideration of vendors' references--its total point score would still not have placed it among the most highly rated vendors.

⁸ It is apparent from the record that the phrase "recovery rate" concerns the percentage of recovery of an outstanding debt.

argues that in evaluating its quotation as only “acceptable” under this subfactor, the IRS improperly downgraded its quotation for not providing personnel turnover and recovery rate information for its alternate project manager and for not providing recovery rate information for its project manager. As to the first issue, GC Services maintains that the RFQ required personnel turnover and recovery rate information only for the key personnel, which, according to GC Services, did not include the alternate project manager but rather was limited solely to the project manager. In support of this contention, GC Services cites the section of the RFQ outlining the evaluation of key personnel, which states, “Note: The Project Manager is the key personnel position.” RFQ at 56. Regarding the second issue, GC Services asserts that its quotation did in fact contain recovery rate information for its project manager in connection with one of its past performance projects—specifically, its [deleted] project.

The record reflects that the IRS’s technical evaluators considered the resumes submitted by GC Services for both its project manager and alternate project manager and credited their many years of experience as strengths. The evaluators also identified the fact that GC Services did not provide any “specific information . . . on recovery rates or staff turnover rates for either the [project manager or alternate project manager]” as a weakness, noting the section of the RFQ stating that the “key personnel will be evaluated based on their recent experience . . . *based on personnel turnover rates and recovery rates* (emphasis added).” AR, Tab M, GC Services - Consensus Evaluation Scoring Sheet, Relevant Experience and Past Performance, Subfactor 1g. Notwithstanding the lack of information provided by GC Services, the record further reflects that the evaluators did in fact attribute recovery rate information to its project manager based on his involvement with the [deleted] project, which GC Services discussed in its quotation. Id.

With regard to GC Services’ principal argument, that it was not required to provide recovery rate or personnel turnover rate information for its alternate project manager since the alternate project manager was not the key personnel, GC Services misapprehends the weakness attributed to its quotation. It was not downgraded for failing to provide required information solely for its alternate project manager. Rather, the IRS faulted GC Services for failing to include personnel turnover and recovery rate information for either its project manager or its alternate project manager. The record reflects, and GC Services has not disputed, that it did not provide any information regarding its project manager’s personnel turnover rate, despite the fact that such information was clearly required by the RFQ. Moreover, while the record reflects that the IRS did in fact credit its project manager with recovery rate information based on his work under the [deleted] project, rendering GC Services’ second contention factually erroneous, the IRS had to “extrapolate” a recovery rate based on the [deleted] project owing to GC Services’ failure to discuss or specify a recovery rate for the particular project manager in its quotation. CO Statement at 6. Despite GC Services’ omissions, the IRS rated its quotation as

“acceptable” under this factor and we can find nothing unreasonable with the IRS’s decision in this regard.⁹

B. Technical Approach Factor

Under this factor, the IRS evaluated GC Services as “acceptable” under four of the seven subfactors and “exceptional” under the remaining three subfactors. GC Services challenges each of its “acceptable” ratings, arguing that it should have instead received a rating of “exceptional” under these subfactors as well. In the discussion below, we first list each of the four subfactors under which GC Services received an acceptable rating (quoting from the evaluation plan in the evaluator scoring sheets), followed by our analysis of the protester’s contentions. For the reasons discussed, we deny GC Services’ protest with regard to this factor.

1. Subfactor c – “Offeror clearly describes how the vendor will meet and maintain the physical security requirements, personnel security, Federal Privacy Act requirements and safeguard requirements.”

In evaluating GC Services’ quotation as acceptable under this subfactor, the IRS determined that GC Services’ quotation did not provide sufficient information regarding the salient characteristics of its “data center” for storing taxpayer information. Specifically, the IRS noted as a weakness the fact that GC Services did not indicate whether the data center would be “slab-to-slab” or alarmed above false ceilings. AR, Tab M, GC Services – Consensus Evaluation Scoring Sheet, Technical Approach, Subfactor 2c.

GC Services contends that the weakness attributed to its quotation for failing to identify whether its data center would be “slab-to-slab” or alarmed above false ceilings was unreasonable. According to GC Services, the IRS should have recognized that it would meet these security requirements since its quotation

⁹ GC Services also argued that there was disparate treatment in the evaluation since it received a rating of “acceptable” while Linebarger received the higher rating of “exceptional.” According to GC Services, its project manager is “significantly more qualified” than Linebarger’s project manager and Linebarger failed to provide key information in order to properly evaluate the personnel turnover and recovery rates identified for Linebarger’s project manager. Protester’s Comments at 22. The record reflects that the IRS evaluated the merits of each quotation on its own and GC Services concedes that the IRS identified the experience of its project manager as a strength under this subfactor. Protester’s Comments at 20-21. Thus, there is nothing to suggest that the IRS misevaluated GC Services’ quotation in this regard. In addition, regarding the key information which GC Services complains was missing from Linebarger’s quotation, the record reflects that Linebarger provided specific turnover and recovery rates for its project manager.

indicated that it intended to use a facility in [deleted], which it currently uses to collect state taxes, and that “[e]xternal auditors, experienced in federal & IRS security requirement, tested GCS security.” GC Services’ Quotation at 2. The IRS, however, had no knowledge or reason to know the security features of GC Services’ [deleted] facility, which was used to collect state taxes, not federal debts, nor did GC Services identify the “external auditors” or elaborate on the testing performed in connection with its security. As a consequence, GC Services’ references to these aspects of its quotation do not support a conclusion that the agency’s evaluation was unreasonable.¹⁰

GC Services also argues that the IRS improperly downgraded its quotation under this subfactor after concluding that GC Services should have included greater detail in its quotation. Specifically, GC Services takes issue with the evaluation comments indicating that GC Services would have benefited from including “information on how they monitor all entryways, reception areas, loading and shipping entrances, variations for after-hours security, intrusion monitoring, security agency for surveillance etc.,” and “additional details ” regarding its plans for preserving taxpayer privacy. AR, Tab M, GC Services – Consensus Evaluation Scoring Sheet, Technical Approach, Subfactor 2c. According to GC Services, such information was not required, and, in any event, its quotation included such detail.

It is important to note that the IRS rated GC Services as acceptable under this subfactor. While GC Services maintains that the evaluator comments concern information that was not required, the question at hand is whether GC Services deserved a rating of “exceptional” under this subfactor, which required GC Services to exceed the IRS’s requirements. In support of its assertion that it did in fact provide the level of detail which the IRS indicated was absent from its quotation, GC Services cites the following section of its quotation regarding its physical security measures:

[deleted]

AR, Tab F, GC Services Quotation, at 26-27.

¹⁰ GC Services also contends that the IRS did not downgrade Linebarger for failing to indicate whether its data facility was “slab-to-slab” or had alarmed ceilings. The record reflects, however, that unlike GC Services, Linebarger indicated that its facility was certified under the [deleted], and provided an explanation of the certification process. The IRS reasonably viewed this certification as addressing security concerns in connection with its data facility.

While this information does provide information regarding the security planned for its facility, it does not provide, as noted by the evaluators, “information on how they monitor all entryways, reception areas, loading and shipping entrances, variations for after-hours security, intrusion monitoring, security agency for surveillance etc.” AR, Tab M, GC Services – Consensus Evaluation Scoring Sheet, Technical Approach, Subfactor 2c. GC Services also contends that its quotation contained the level of detail sought by the IRS regarding its plans for preserving taxpayer privacy. In support of this contention, GC Services cites sections of its quotation primarily pertaining to various information security measures, which the IRS did not view as germane to additional detail regarding preserving taxpayer privacy. We view GC Services’ challenges under this subfactor as presenting nothing more than its disagreement with the agency’s assessment of its quotation; this disagreement does not render the agency’s evaluation unreasonable.

2. Subfactor e -- “Proposed labor mix is sufficient to provide required services (i.e., new versus experienced collectors assigned to the IRS task).”

With regard to this subfactor, GC Services disagrees with its “acceptable” rating, alleging that it was unreasonably downgraded for not including sufficient detail regarding how many personnel it would use to staff the IRS project or its staffing of “new” versus “experienced” debt collectors. GC Services argues the level of detail desired by the IRS was unreasonable since staffing could not be known until after award “when the IRS discloses the number of accounts and frequency of payments.” Protest, Mar. 17, 2006, at 10.

In evaluating GC Services as acceptable under this subfactor, the IRS evaluators noted that GC Services planned to assign current experienced employees and recruit new employees for the IRS project, and that it intended to use experienced personnel from among the ranks of individuals working on state tax collection matters for its “front-line staff.” AR, Tab M, GC Services – Consensus Evaluation Scoring Sheet, Technical Approach, Subfactor 2e. The evaluators also commented that GC Services “did not disclose the total staff that will be dedicated to the IRS office” but indicated that it planned to staff the project with an “intact team,” utilizing the employees and managers of its [deleted]. Id.

As an initial matter, it does not appear, as GC Services suggests, that the IRS downgraded GC Services for failing to identify its “total staff.” Rather, the comment regarding GC Services’ nondisclosure of its total staff appears merely to describe the information contained in GC Services’ quotation. The IRS’s primary concern under this subfactor related to the limited information provided by GC Services regarding its intended mix of new versus experienced collectors in performing the debt collection requirements—the critical information required under the subfactor. Based on the limited information it provided, the IRS concluded that GC Services did not warrant an “exceptional” rating under the subfactor.

Specifically, the IRS noted that GC Services did not “address the labor mix as a ratio or otherwise quantify use of new versus experienced collectors,” nor did GC Services describe the qualifications of what it considered to be an “experienced” collector “in terms of average tenure or other qualifications such as minimal or no complaints, etc.” AR, Tab M, GC Services – Consensus Evaluation Scoring Sheet, Technical Approach, Subfactor 2e. Since, contrary to GC Services’ argument, this type of information did not require specific numbers or identities of individuals, the information sought by the IRS was not dependent on knowing the “number of accounts and frequency of payments,” and the IRS’s evaluation of GC Services’ quotation in this regard as acceptable was reasonable and consistent with the terms of the RFQ.

GC Services also cites to various statements in its quotation to demonstrate that it provided relevant detail regarding its staffing. Specifically, GC Services cites a “staffing chart” in its quotation, which reflected “representative” staffing. Protester’s Comments at 28. The chart upon which GC Services relies, however, does not address the mix of new versus experienced collectors; rather, it provides nothing more than its management organization. In rebuttal of the agency’s contention that it did not define what it considered to be an “experienced” collector, GC Services cites the fact that it planned to use its staff of collectors who have “experience with the [deleted],” as well as “the skills that will be demanded from potential new employees, including customer acumen, excellent listening skills, helpful and resourceful problem solving, and procedure orientation.” AR, Tab F, GC Services Quotation at 13; Protester’s Comments at 30. The first comment, however, does not identify the tenure of the collectors and the second speaks to new employees; as a consequence, the information does not aid in understanding GC Services’ staffing mix or particularly indicate the experience of its collectors. Thus, the information upon which GC Services relies does not suggest that the agency’s evaluation was unreasonable.¹¹

¹¹ GC Services also argues that Linebarger did not provide any greater level of detail in addressing this subfactor despite its higher rating of “exceptional.” The record, however, reflects that the IRS credited Linebarger’s quotation for providing a detailed [deleted], which was derived from information provided in the RFQ. In addition, the IRS reasonably credited Linebarger for addressing its mix of new versus experienced staffing given that Linebarger indicated that [deleted]. AR, Supplemental CO Statement at 10. Again, while GC Services may disagree with the IRS’s evaluation of Linebarger’s quotation, which utilized a different approach than did GC Services, the record does not support a finding that the IRS’s evaluation of these quotations was unreasonable.

3. Subfactor f – “Offer outlines the proposed [private collection agency] quality control (monitoring) of employee actions as well as how they intend to provide the ability for the IRS to monitor their systems and employee actions on IRS accounts.”

As indicated by the agency, evaluation under this subfactor focused on two elements: (1) internal quality control - how the vendors monitor their employees, and (2) how the vendors provide for the IRS to monitor their systems and employees' actions. Supplemental CO Statement at 11. In evaluating GC Services under this factor, the IRS commented that “[t]hey fail to provide number of cases and process for their monitoring” and “they fail to describe how they will equip (computer system) and train the IRS at our site of choice.” AR, Tab M, GC Services – Consensus Evaluation Scoring Sheet, Technical Approach, Subfactor 2f. With regard to the second concern, the evaluators noted sections of the RFQ providing that the contractor “shall provide IRS access to accounts maintained on the Contractor’s computer system. The Contractor shall provide a system at the IRS[’s] designated site, which shall be set-up and maintained by the Contractor,” that the contractor shall provide “view access to data elements outlined by IRS,” and requiring the contractor to provide training on how to use the contractor’s system. AR, Tab M, GC Services – Consensus Evaluation Scoring Sheet, Technical Approach, Subfactor 2f; RFQ §§ J.7.4, J.7.4.1, J.7.4.2.

In attempting to rebut the evaluators’ comments, GC Services argues that identifying the number of cases monitored was not possible because the volume and frequency of accounts could not be known until after award. The IRS, however, explained that it was not seeking a specific number of cases, but rather some insight regarding the scale of the cases that GC Services would monitor, such as “one out of ten calls or one out of twenty calls” or some “percentage” of accounts reviewed. Supplemental CO Statement at 11. By way of example, the IRS notes that Linebarger provided that it would [deleted]. Linebarger’s Quotation at 22. While GC Services contends that Linebarger’s representation was meaningless, since it does not define “[deleted],” and argues that Linebarger similarly did not identify the number of cases that it would monitor, the agency reasonably viewed the information provided by Linebarger as identifying the process by which cases would be culled for monitoring as well as the frequency, while GC Services’ quotation was silent regarding these issues.

GC Services also contends that it did in fact provide a detailed account of its process for monitoring its own employees. Specifically, GC Services notes several sections of its quotation stating that it “will institute a [deleted],” it “will [deleted]” and it “will [deleted].” AR, Tab F, GC Services Quotation, at 13-14.

The record reflects that the IRS specifically considered these elements of GC Services’ quotation, (e.g., the evaluators noted that GC Services “[deleted]”), but

noted that GC Services' quotation would have been strengthened by a clearer explanation of "the process for monitoring." AR, Tab M, GC Services - Consensus Evaluation Scoring Sheet, Technical Approach, Subfactor 2f. In this regard, the contracting officer explained that while GC Services provided for a "[deleted]," GC Services did not address how it "would approach this work, nor did it provide their process or methodology for monitoring the quality of its employees." Supplemental CO Statement at 11. Given the agency's consideration of the information relied upon by GC Services, there is nothing to suggest that the agency's evaluation was unreasonable, other than GC Services' assessment of its own quotation. We view this as mere disagreement with the agency's evaluation.

GC Services further asserts that it also provided detail regarding how the IRS will be equipped and trained on the GC Services system. Specifically, GC Services cites sections in its quotation regarding two software applications, one which would "[deleted]" and the other, a "[deleted]." GC Services' Quotation at 14. These software applications, however, do not address the agency's specific concern—the lack of information regarding how GC Services would provide the IRS with the ability to monitor accounts maintained on GC Services' computer systems. The evaluators specifically noted the RFQ requirements in this regard. Moreover, GC Services' quotation did not cite any information regarding how it intended to train the IRS on its monitoring system.¹² Given the evaluation record, there was nothing unreasonable with the IRS's decision to rate GC Services as acceptable under this subfactor.

4. Subfactor g -- "Offer demonstrates a clear understanding of the Statement of Work, relevant to meeting and maintaining the work performance in a secure environment."

Under this subfactor, the IRS considered vendors' ability to meet the RFQ's security requirements. GC Services disagrees with its "acceptable" rating under this subfactor, challenging the IRS's conclusion that its quotation would have benefited "from additional specificity and details regarding personnel security and disaster recovery." AR, Tab M, GC Services -- Consensus Evaluation Scoring Sheet, Technical Approach, Subfactor 2g. According to GC Services, its quotation provided greater detail regarding its personnel security and disaster recovery than did Linebarger's, which received a rating of "exceptional " under this subfactor.

¹² GC Services argues that Linebarger's quotation provided "very few" details regarding IRS monitoring and training. The record, however, reflects that, unlike GC Services, Linebarger indicated that its information technology system provides the IRS with "[deleted]," that "[deleted]," and that it would provide the IRS with training. Linebarger's Quotation at 24.

Our review of the record confirms the reasonableness of GC Services' and Linebarger's ratings. In this regard, the record shows that Linebarger's quotation had several characteristics which were considered strengths by the IRS, and were absent from GC Services' quotation. In fact, GC Services has not identified any strengths in its quotation under this subfactor which would have warranted a rating higher than acceptable; rather, GC Services merely identifies details of its quotation, which the IRS considered and noted in its evaluation. For example, the IRS noted that GC Services provided for a "[deleted]." AR, M, GC Services – Consensus Evaluation Scoring Sheet, Subfactor 2g. With regard to Linebarger, however, the IRS identified numerous aspects of its quotation as notable strengths. For example, the IRS highlighted Linebarger's [deleted] certification, which one of the evaluators described "as one of the most stringent security certifications," the fact that Linebarger would [deleted], and its "additional advantage" of an "[deleted]" which would "[deleted]." AR, Tab M, Linebarger – Consensus Evaluation Scoring Sheet, Technical Approach, Subfactor 2g. Although GC Services believes that its quotation was superior to that of Linebarger, it has not shown the agency's judgments to be unreasonable.

C. Management Plan Factor

The IRS evaluated GC Services as "marginal" under two of the five subfactors under this factor, "acceptable" under two of the subfactors, and "exceptional" under the remaining subfactor. GC Services challenges each of its "marginal" and "acceptable" ratings, arguing that it should have instead received ratings of "exceptional." We discuss the two subfactors under which GC Services received a rating of "marginal" and deny GC Services' challenges with regard to these subfactors.

1. Subfactor b -- "The proposal describes the vendor's management plan and compliance controls for training their employees in applicable Federal, State and local laws and regulations -- both initial and refresher."

Under subfactor b, the IRS considered vendors' plans for initial and refresher training of employees "in applicable Federal, State and local laws and regulations." Id. GC Services received a rating of "marginal" under this subfactor. In evaluating GC Services under this subfactor, the IRS noted that GC Services' training plan did not discuss "passing scores or satisfactory training standards, [Fair Debt Collection Procedures Act] testing, [or] length and depth of the training." AR, Tab M, GC Services - Consensus Evaluation Scoring Sheet, Management Plan, Subfactor 3b. Due to these omissions, the evaluators concluded that "[t]he lack of specificity equates to an unknown risk level and a marginal rating." Id. GC Services argued in its comments that its "marginal" rating was unreasonable since the RFQ only required vendors to "describe" their training plans, that it had dedicated 3-1/2 pages of its quotation to its plan, and that the level of detail expected by the IRS could not be provided because the IRS's training curriculum would not be available until after

award. GC Services also argued that the IRS' s evaluation of Linebarger as "exceptional" under this factor was premised upon a misunderstanding of information in its quotation, and that the IRS did not similarly downgrade Linebarger for failing to provide information on passing scores or satisfactory training standards.

The RFQ required each vendor to describe its training plan, "which shall include training of staff on all applicable Federal State, and local laws, and regulations, the Tax Payer Bill of Rights, and IRS Policies and Procedures, and training provided for interaction with taxpayers." RFQ at 57. While GC Services concludes that it could not provide the level of detail sought by the IRS, it has not explained why the information sought by the IRS could not be provided absent the IRS curriculum information. In fact, the IRS was concerned about the degree to which vendors addressed the applicable laws and regulations in their training plans. Thus, "the more directly a vendor addressed these laws and regulations indicate[d] to the IRS how well the vendor understood the importance of these laws and regulations to the program." RFQ at 57; Supplemental CO Statement at 14.

In the IRS's view, GC Services' quotation evidenced a " general lack of acknowledgment of the importance of these laws, particularly the Fair Debt Collection Practices Act," "the principal federal law governing the Private Collection industry," CO Statement at 9, which "demonstrated a minimal understanding of the Government's objective's objectives in this area." Supplemental CO Statement at 15. In this regard, the IRS evaluators commented, and the record reflects, that GC Services' quotation makes only a passing reference to the Fair Debt Collection Practices Act, regarding the issue of appropriate calling times. Thus, while GC Services may disagree with the agency's evaluation of its training plan, there is nothing to suggest that the IRS's evaluation was unreasonable.

With regard to GC Services' arguments challenging the IRS's evaluation of Linebarger as "exceptional" under this factor, we need not address GC Services' arguments in this regard since, as discussed below, we conclude that GC Services would not have been in line for award and therefore lacks standing to challenge the evaluation of Linebarger.¹³

¹³ To the extent GC Services indirectly challenges its own evaluation by continuing to maintain that the IRS failed to assign the same weaknesses to Linebarger it had assigned to GC Services--specifically, GC Services' failure to discuss "passing scores" or "satisfactory training standards" in its training plan--GC Services fails to challenge the IRS's primary concern that its training plan fundamentally failed to acknowledge the importance of various federal and state laws, particularly the Fair Debt Collection Practices Act. As a consequence, GC Services has not established that the IRS acted unreasonably in assigning its quotation a rating of "marginal" under this subfactor.

2. Subfactor c -- “The proposal describes the vendor’s management plan and compliance controls for training their employees in Taxpayer Bill of Rights, IRS policies and procedures, interaction with taxpayers -- both initial and refresher.”

GC Services challenges its “marginal” rating under this subfactor. In evaluating GC Services’ quotation under this subfactor, the IRS noted generally that additional information regarding the “length and depth” of training would have strengthened GC Services’ quotation. AR, Tab M, GC Services -- Consensus Evaluation Sheet, Management Plan, Subfactor 3c. As a specific weakness the evaluators highlighted the fact that GC Services did not mention the Taxpayer Bill of Rights in describing its training plan. While acknowledging that “the taxpayer service message does permeate” GC Services’ quotation, the evaluators concluded that GC Services did not adequately describe its training plan and that it demonstrated “a minimal understanding of the Government’s objectives and raises an unknown degree of risk in meeting solicitation requirements.” *Id.* In addition, the evaluators noted that GC Services did not make specific reference to refresher training on “[the Taxpayer Bill of Rights], IRS Policies and Procedures, or interactions with taxpayers” and failed to describe the frequency or duration of refresher training. *Id.*

GC Services principally challenges the IRS’s decision to downgrade its quotation for failing to mention the Taxpayer Bill of Rights.¹⁴ According to GC Services, the IRS has unreasonably elevated “form over substance” in this regard. Protester’s Comments at 44; Protester’s Supplemental Comments at 24. While it did not specifically identify the Taxpayer Bill of Rights in its training plan, GC Services maintains that it did in fact address the Taxpayer Bill of Rights since its training plan generally describes the “concerns raised by these laws” and provides for “training as to ‘relevant laws, rules, and regulations.’” Protester’s Comments at 44.

As explained by the contracting officer, however, the RFQ specifically required vendors to describe their training of staff on the Taxpayer Bill of Rights, and the IRS viewed how directly a vendor addressed training pertaining to the Taxpayer Bill of Rights and IRS policies and procedures as an indication of how well the vendor

¹⁴ GC Services also restates the argument that the level of detail expected by the IRS could not have been provided because the IRS’s training curriculum was not available until after award. Again, however, while GC Services concludes that it could not provide the level of detail sought by the IRS, the RFQ nonetheless required GC Services to describe its Training Plan “which shall include training of staff on all applicable Federal State, and local laws, and regulations, the Tax Payer Bill of Rights, and IRS Policies and Procedures, and training provided for interaction with taxpayers,” and GC Services does not explain why the training information sought by the IRS could not have been provided absent the curriculum information. RFQ at 57.

understood the importance the IRS placed on these issues. Supplemental CO Statement at 15-16. By failing to mention the Taxpayer Bill of Rights, GC Services, in the IRS's view, demonstrated its lack of understanding of the requirements. Id.

It was GC Services' obligation to include sufficient information in its quotation for the agency to determine whether the quotation would meet its needs; it was not the IRS's obligation during the evaluation process to fill in the gaps or to perform a "leap of faith" based on generalized statements contained in GC Services' quotation. G&M Indus., B-290354, July 17, 2002, 2002 CPD ¶ 125 at 4; Robotic Sys. Tech., B-278195.2, Jan. 7, 1998, 98-1 CPD ¶ 20 at 9. Since GC Services had the burden of submitting a quotation which discussed its proposed training on the Taxpayer Bill of Rights, yet did so in only the most general terms, we have no basis to question the reasonableness of the agency's concerns regarding GC Services' understanding of the requirements.

GC Services also maintains that contrary to the agency's assertions, it described the frequency and duration of refresher training. Specifically, GC Services cites sections of its quotation stating that "[m]anagement holds monthly complaint avoidance seminars as well as training for other salient topics," and a section of its quotation regarding inspections, stating that "[s]afeguard Inspections as scheduled by the IRS . . . will ensure that . . . employees and any affected officers will receive initial and annual disclosure and safeguards awareness training." GC Services Quotation at 42, 34. The IRS, however, reasonably replies that the monthly training appeared to only address management, not all employees, as required by the RFQ, and the record reflects that GC Services' statements regarding training of non-management employees are general in nature (e.g., "[e]very [GC Services] Tax Assistant receives . . . ongoing training throughout their tenure with the company," and "[r]etraining occurs in response to any performance or quality issues and also to disseminate newly promulgated laws, rules, or regulations"). GC Services Quotation at 42. Based on this record, GC Services has failed to establish that the agency's conclusions in this regard were unreasonable.¹⁵

¹⁵ GC Services also raises numerous arguments challenging the IRS's evaluation of Linebarger's quotation. For example, GC Services contends that Linebarger was not similarly downgraded by the IRS for failing to detail the duration of its refresher training. The IRS, however, explains that the duration of Linebarger's training was not an issue because it was satisfied by the "depth" of Linebarger's training plan. Supplemental Agency Report at 42. We view these challenges to Linebarger's evaluation as little more than disagreement with the IRS's conclusions under this subfactor, which does not render the agency's evaluation unreasonable. In any event, as discussed below, GC Services does not have standing to challenge the IRS's evaluation of Linebarger's quotation since GC Services would not be in line for award even assuming those challenges were found to have merit.

II. IRS's Evaluation of and Responsibility Determination for Linebarger

GC Services raises numerous arguments challenging the IRS's technical evaluation of Linebarger's quotation and also challenges the IRS's responsibility determination in connection with Linebarger. Regarding the latter basis of protest, GC Services argues that the IRS failed to make a proper affirmative determination of responsibility in connection with the award to Linebarger based on the erroneous assumption that it was not required to make a responsibility determination since it was merely placing an order under Linebarger's FSS contract.

Based on our conclusions regarding the IRS's evaluation of GC Services' quotation, we dismiss these bases of protest since GC Services lacks standing to challenge the award to Linebarger. In order to have standing to protest a federal procurement, a protester must be an interested party, that is, an actual or prospective offeror whose direct economic interest would be affected by the award of, or the failure to award, a contract. Bid Protest Regulations, 4 C.F.R. § 21.0(a) (2006). A protester is not an interested party where it would not be in line for contract award if its protest were sustained. Durocher Dock & Dredge/Black & Veatch, A Joint Venture, B-280853, Nov. 24, 1998, 98-2 CPD ¶ 149 at 8. As noted above, several other firms would be in line for award if we found the award to Linebarger improper. Accordingly, GC Services is not an interested party to challenge Linebarger's evaluation or the affirmative determination of responsibility.¹⁶ See IAP World Servs., Inc., B-297084, Nov. 1, 2005, 2005 CPD ¶ 199 at 4-5; JAVIS Automation & Eng'g. Inc., B-290556.2, Aug. 9, 2002, 2002 CPD ¶ 145 at 6.

CONCLUSION

In sum, we deny GC Services' arguments challenging the agency's evaluation of its quotation with regard to the following factors and subfactors: (1) relevant experience and past performance, subfactor g; (2) technical approach, subfactors c, e, f, and g; and (3) management plan, subfactors b and c. Moreover, as a result of denying GC Services' protest with regard to these issues, we dismiss its bases of protest challenging the agency's evaluation of Linebarger's quotation and the responsibility determination in connection with Linebarger since GC Services would

¹⁶ In response to our request, GSA, the agency responsible for administering the FSS, submitted comments regarding whether the IRS was required to make an affirmative determination of responsibility for Linebarger before it placed a task order under Linebarger's FSS contract. In its response, GSA affirmatively stated that "GSA is tasked with making determinations of responsibility pertaining to FSS contractors, thus ordering agencies are not required to make an affirmative responsibility determination prior to placing a FSS order." GSA Letter, May 17, 2006 at 1.

not have been in line for award and therefore is not an interested party for the purpose of challenging the IRS 's issuance of a task order to Linebarger.

The protest is denied in part and dismissed in part.

Anthony H. Gamboa
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