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## Decision

**Matter of:** Great American Forwarders, Inc.

**File:** B-408000

**Date:** May 2, 2013

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Jason S. Dreifuss, Esq., Benjamin J. Lambiotte, Esq., and John A. Knab, Esq., Garvey Schubert Barer, for the protester.  
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### DIGEST

Agency reasonably excluded a firm from eligibility to receive awards for the shipment of international household goods for a period of time, where the firm failed to meet a minimum performance score established by the agency to improve the quality of household good shipments for military members.

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### DECISION

Great American Forwarders, Inc. (GRAF) of Alexandria, Virginia protests its exclusion by the Department of Defense, Surface Deployment and Distribution Command (SDDC), Personal Property Division, from eligibility to receive shipment awards for international household goods.

We deny the protest.

### BACKGROUND

The SDDC Personal Property Division is responsible for managing the shipment of household goods for Department of Defense military personnel worldwide. In fiscal year 2012 there were more than 800 transportation service providers (TSP) eligible for shipping household goods in three markets: international, domestic, and baggage. As relevant here, one hundred seventy-six of these TSPs were actively competing for shipments in the international market during fiscal year 2012. Agency Report (AR) at 1.

The agency explains that the Defense Transportation Regulations (DTR) govern the shipment of goods and the award of shipments to TSPs. TSPs are evaluated during four annual performance periods, wherein a TSP's performance score is calculated based on a 12-month rolling average of each TSP's customer satisfaction score and claims score. AR at 2; Tab 7-1, Decl. of SDDC Personal Property Division Chief, at 1. A TSP has access to all of the data that comprise its performance score, and the TSP can review the data for accuracy and challenge the inclusion of certain customer scores in its overall performance score. AR at 2; DTR, Part IV-403(C)(10), (C)(22)(j).

The DTR provides that the agency will establish a minimum performance score (MPS) for each rate filing season, and TSPs whose performance scores are lower than this level are not eligible to file rates and receive award of shipments during that period. AR at 1; DTR, Part IV-402(C)(2)(d); 403(C)(23). For each rate filing season, a TSP files a rate for each market; that rate establishes what the TSP will charge for moving household goods during the applicable season. The DTR provides that the performance score and proposed rate for a TSP are combined to find the best value score (BVS). The BVS is then used to determine which TSP will be awarded shipments. AR at 2; DTR, Part IV-402(C)(2)(d).

The agency states that, at the inception of the current system in November 2008, the MPS was set at 10. AR, Tab 7-1, Decl. of SDDC Personal Property Division Chief, at 1. The agency explains that an MPS of 10 was considered a low threshold, and was intended to allow TSPs to adjust to the new evaluation and award system. Id. In preparation for the 2012 rate filing season the agency informed all TSPs in a message dated December 29, 2011, and updated on January 12, 2012, about the relevant dates and rules for rate filings. AR, Tab 3-1, Rate Filing Message (Jan. 12, 2012). The TSPs were notified at that time that the MPS for all markets would be increased for the 2013 rate filing season. Id. at 2. In October 2012 the TSPs received another message entitled "Recalculation of Customer Satisfaction Survey (CSS) Scores for the 1 January 2013 to 14 May 2013 Performance Period." AR, Tab 3-2, Recalculation Notice (Oct. 2012). This message requested that TSPs review their performance score for accuracy, and instructed TSPs to file any appeals by November 19, 2012. Id.

The agency explains that, in an effort to increase the quality of household goods shipments, the agency established an MPS for the 2013 rate filing season that would exclude those TSPs whose performance scores were in the bottom 1 percentile from receiving awards. AR, Tab 7-1, Decl. of SDDC Personal Property Division Chief, at 1. As relevant here, the performance scores for TSPs in the international market ranged from 55.29 to 63.55. AR, Tab 4-1, TSP Scoring Spreadsheet for 2013 Rate Filing, International Market. On December 17, 2012, the TSPs were notified that the MPS for international household goods would be 56. AR, Tab 3-3, Rate Filing Message (Dec. 17, 2012). TSPs were also advised that

the rate filing period for 2013 would be open from February 3 to February 8, 2013.  
Id.

On January 18, 2013, the agency notified GRAF that its performance score of 55.92 was below the MPS for the international market. AR, Tab 6-1, Letter from SDDC to GRAF (Jan. 18, 2013). Based on this finding, GRAF was advised that it was precluded from filing rates and receiving awards in the international household goods markets for the 2013 rate filing season.<sup>1</sup> Id. AR, Tab 6-3, Letter from SDDC to GRAF (Jan. 30, 2013); see Tab 7-1, Decl. of SDDC Personal Property Division Chief, at 2.

On January 25, GRAF filed an agency-level protest appealing its disqualification. AR, Tab 6-2, GRAF Agency-Level Protest (Jan. 25, 2013). GRAF's agency-level protest was denied on January 30. AR, Tab 6-3, Letter from SDDC to GRAF (Jan. 30, 2013). In its response to the agency-level protest, the agency advised the protester that it will be permitted to file rates for the 2013 season, but will not be eligible to receive awards until after the completion of the current performance period in August 2013. GRAF was also advised that, after August 2013, it will be eligible to receive awards, provided its performance score is above the MPS of 56. This protest followed.

## DISCUSSION

GRAF raises two primary arguments: (1) the agency did not provide adequate notice of the increase of the MPS required for eligibility to compete for international market shipment awards, and (2) the agency unreasonably failed to round GRAF's performance score from 55.92 up to 56. GAO Protest at 3. For the reasons discussed below, we find no basis to sustain the protest.<sup>2</sup>

Contracting agencies have broad discretion to determine their needs and the best method to accomplish them. Parcel 47C LLC, B-286324, B-286324.2, Dec. 26, 2000, 2001 CPD ¶ 44 at 7. Although this protest does not concern competitive

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<sup>1</sup> GRAF has not been excluded from the domestic household goods market or the international unaccompanied baggage market, and has previously been awarded shipments in these markets. AR, Tab 7-1, Decl. of SDDC Personal Property Division Chief, at 2.

<sup>2</sup> Although this protest does not concern a solicitation or an award of a contract, our Office has held that we have jurisdiction to consider objections to agency actions concerning requests for competitive rate tenders for transportation services that affect the eligibility of firms to receive awards for shipments. See Abba Int'l, Inc., et al., B-311225.4, Feb. 2, 2009, 2009 CPD ¶ 28.

proposals, our Officer treats agency evaluations concerning similar procurement actions as a matter within an agency's discretion, which we will not disturb unless the agency's actions were not in accordance with applicable procurement statutes and regulations. See Crewzers Fire Crew Transport, Inc., B-406601, July 11, 2012, 2012 CPD ¶ 204 at 5-6.

First, GRAF argues that the agency failed to provide adequate notice that the MPS would be increased from 10 to 56 for the 2013 cycle. In this regard, while GRAF acknowledges that it had the opportunity to challenge the customer satisfaction survey scores which are used to calculate its performance score, the protester states that it elected not to do so because it was not aware how much the MPS would increase for 2013, and because it did not realize that its scores would preclude it from receiving awards. Protest at 3 (“[The agency] baited GRAF not to challenge [its] low scores because [the agency] never provided notice that it could be increasing [the] MPS by so much.”)

As discussed above, however, the agency notified the TSPs a number of times that there would be an increase to the minimum performance scores in each market. In the fall of 2012, the agency reminded all TSPs that it would recalculate customer satisfaction survey scores, and also reminded all TSPs of the process and deadlines for appealing customer satisfaction survey scores. AR, Tab 3-2, Recalculation Notice (Oct. 2012); see AR at 9. The agency explains that, at the time it notified the TSPs that the minimum performance scores would increase, the agency could not have provided the new MPS score because it had not yet been calculated, as the calculations to establish the MPS were not made until December 2012. AR at 9 n.10. Since the information requested was not available, we find no obligation on the part of the agency to provide more specific guidance about the possible magnitude of the MPS increase. More importantly, nothing in the applicable regulations cited by the protester required the agency to provide a particular period of advanced notice of a change to the MPS. See DTR, Part IV, Ch. 403 ¶ C.23. On this record, we find no basis to sustain the protest.

Second, GRAF argues that the agency unreasonably concluded that its performance score of 55.92 did not satisfy the MPS of 56. The protester contends that the agency should have rounded its score up to 56. The protester argues, in the alternative, that the agency did not provide advance notice that the agency would interpret the requirement for an MPS of 56 to mean that a performance score that was 0.08 below that level would not be rounded up to 56.00.

As discussed above, the agency establishes an MPS in order to ensure adequate performance by TSP. We view the establishment of the MPS at 56 to be a matter within the agency's discretion.<sup>3</sup>

To the extent that the protester contends that it was unreasonable for the agency not to round the protester's score up to an acceptable level, we find no merit to this argument. First, the protester cites no authority for the proposition that the agency should have rounded up its score to make it acceptable. Instead, the protester merely argues that its performance score is "substantially equal" to the MPS, and that "[a]s a matter of common sense and simple fairness," its score should have been deemed acceptable. Protest at 3. Similarly, the protester provides no support for its argument that the agency was required to advise TSPs that the agency would not round scores below 56 up to that score. As the record shows, the agency established the 2013 season MPS for eligibility as 56, and the protester did not have a performance score of 56. On this record, we find no basis to conclude that the agency's actions were unreasonable.

The protest is denied.

Susan A. Poling  
General Counsel

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<sup>3</sup> GRAF's comments on the agency report addressed the agency's establishment of the 2013 season MPS at 56 in a contradictory manner. On the one hand, the protester states that "GRAF's protest does not center on the Agency's discretion to set the MPS at 56." Protester's Comments at 1. On the other hand, the protester argues that the agency did not provide a reasonable basis explaining why it set the MPS at 56. *Id.* at 3. We need not resolve this matter because the protester did not timely challenge the agency's rationale for establishing the MPS at 56. In this regard, neither the protester's agency level protest nor its initial protest to our Office challenge this matter. Instead, the protester first addressed the reasonableness of the agency's establishment of the MPS in its comments on the agency report. Where a protester initially files a timely protest, either with our Office or at the agency, and later supplements it with new and independent grounds of the protest, the later-raised allegations must independently satisfy the timeliness requirements. See Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2), (3) (2013). Our regulations do not contemplate the unwarranted piecemeal presentation or development of protest issues. MRK Incineration/IDM Corp., a Joint Venture; Halliburton NUS Envtl. Corp., B-244406.5, B-244406.6, Jan. 16, 1992, 92-1 CPD ¶ 77 at 7-8.