



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Advanced Elevator Services, Inc.

File: B-272340; B-272340.2

Date: September 26, 1996

Rene' A. Marques for the protester.

Scarlett D. Grose, Esq., General Services Administration, for the agency.

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DIGEST

Protest by small business that solicitation for elevator/escalator maintenance services, which combines the services on a regional basis rather than on a local basis as was previously done, unduly restricts competition is denied because the agency is not required to separately obtain these services where the agency's overall needs can be most effectively provided through a consolidated procurement approach.

DECISION

Advanced Elevator Services, Inc., a small business, protests the terms of request for proposals (RFP) No. GS06P96GXC0029, issued by the General Services Administration (GSA) for multiple region elevator/escalator maintenance services. The protester contends that the RFP is unduly restrictive because it combines these services, which were previously awarded on a local basis, into multiple region groups by equipment manufacturer, thereby excluding small business participation.

We deny the protest.

Prior to the issuance of the RFP, GSA established a Business Process Re-engineering (BPR) team to study various methods to improve and streamline the procurement process for elevator maintenance services while reducing overall costs. The BPR team solicited the views of major elevator manufacturers, small businesses, other industry organizations, and regional procurement officials within GSA and other federal agencies. The BPR team examined several approaches to the delivery of these services, including the advantages and disadvantages of contracting on a nationwide, regional, or local basis. The BPR concluded that nationwide elevator maintenance contracting was the approach best suited to

improving services to GSA's tenant agencies while reducing costs. As an implementation tool, the BPR team recommended contracting on a regional basis as a pilot program before going nationwide.

The RFP's specifications were prepared based on the findings and recommendations of the BPR team. The RFP contemplated award of up to five, fixed-price contracts with economic price adjustment for services at 178 federal buildings in three GSA regions which span 15 states. Each contract will be for a 5-year base period with two 5-year bilateral options.¹ To be considered for award, the solicitation required offerors to submit offers for all buildings within a group; the buildings were grouped by elevator manufacturer.²

Advanced Elevator, an incumbent at one of the buildings, contends that consolidating the elevator service requirements into five multiple region contracts is unduly restrictive because the requirements are larger than any small business firm can provide since the equipment is located in 15 different states and a response time of 1 to 3 hours is required by the solicitation.³ The protester maintains that the requirements should be divided into several solicitations to allow increased competition as required by applicable procurement laws and regulations. In addition, Advanced Elevator alleges that grouping the equipment by manufacturer gives those manufacturers, only one of which is an American-owned firm, an unfair competitive advantage.

In response, GSA questions the extent to which small businesses are prejudiced by the requirements of the solicitation. The agency explains that it considered the impact of grouping its requirements by region on small business participation and concluded that the contracts to be awarded under this solicitation are in the dollar

¹There are presently 103 contracts for elevator services in these 178 buildings. These contracts are typically for 3 years with unilateral options ranging from 1 to 3 years.

²Subsequent to the filing of this protest, the agency received initial proposals from three firms for Groups 1, 2, 3, and 5; for Group 4, four firms submitted proposals. The protester submitted a proposal for only one building in each of Groups 1, 2, and 5.

³The protester also complains that GSA will not renew the option in its current elevator maintenance contract but will obtain these services through the new contracts. However, the option is exercisable at the sole discretion of the government, so the decision not to exercise the option is a matter of contract administration and not within the scope of our bid protest function. The Big Picture Co., Inc., B-220859, Oct. 31, 1985, 85-2 CPD ¶ 512.

range that is within the capability of small businesses. Moreover, GSA contends, nothing in the solicitation prohibits small businesses from forming joint ventures or other teaming arrangements in the event that an individual small business does not operate within the entire 15-state area.

GSA further maintains that, in any case, award of multi-regional elevator maintenance contracts would best accommodate the agency's need to provide quality service to its tenant agencies while achieving significant savings. Specifically, GSA argues that because of downsizing and a decrease in its operating budget, the agency does not have sufficient personnel or resources to continue to award and administer 103 separate contracts for elevator maintenance services in these three regions. While this was acceptable in the past, the agency states that under the current budgetary constraints, this approach imposes an unacceptable burden on the agency for processing contract awards and performing contract administration. According to the agency, bundling these services into five regional contracts will significantly reduce the agency's administrative burden of managing 103 contracts for elevator maintenance in 178 buildings. Furthermore, bundling these requirements will provide cost savings from economies of scale, such as volume discounts, a higher level of service, a shift of quality control costs from the agency to the contractor, greater accountability for maintenance and repair arising from longer contract terms and administrative cost savings due to the significant decrease (from 103 to 5) in the number of contracts the agency would have to administer.

In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit offers in a manner designed to achieve full and open competition, and may include restrictive provisions and conditions only to the extent necessary to satisfy the needs of the agency. 41 U.S.C. § 253a(a)(2) (1994). Since bundled, consolidated, or total-package procurements combine separate, multiple requirements into one contract, they have the potential for restricting competition by excluding firms that can furnish only a portion of the requirement. Border Maintenance Serv., Inc., B-260954; B-260954.2, June 21, 1995, 95-1 CPD ¶ 287. Therefore, the bundling of requirements will be upheld only where it is shown to be necessary to meet the agency's minimum needs. Id.; A&C Bldg. and Indus. Maintenance Corp., B-230839, July 21, 1988, 88-2 CPD ¶ 67.

We think GSA's justification for bundling its elevator maintenance requirements is reasonable. As discussed above, GSA explains that due to recent personnel losses and budget cuts, it simply does not have sufficient personnel and resources to continue to award and manage more than 100 separate contracts for elevators in 178 buildings in three regions. We have held in similar circumstances that bundling of requirements was not legally objectionable because such bundling was necessary for the agency to meet its minimum needs. See Border Maintenance Serv., Inc.,

supra; A&C Bldg. and Indus. Maintenance Corp., supra. Accordingly, we see no basis to object to the bundling of requirements here.

In addition, the agency believes that its acquisition strategy will lead to improved delivery of these services to the tenant agencies. The agency relied on the acquisition strategy recommended by the BPR team in order to achieve economies of scale accruing to the benefit of the government in grouping the elevators by manufacturer within a specific geographical region. Underlying this strategy is the agency's belief that this approach will provide incentives to a prospective contractor to offer competitive prices to service the elevators of one particular manufacturer for a longer contract term (5 years as compared to 3 years), and two, 5-year bilateral option periods as opposed to the typical 1 to 3 years unilateral options. Additionally, as the agency points out, the contractor will have greater incentive to deliver quality services, as failure to do so would have a major impact on the contractor's business resulting from contract termination. While Advanced Elevator recognizes that GSA "has made an attempt to reduce the costs of operating Government," it insists that this type of bundling is an attempt by GSA to award sole source manufacturer's maintenance contracts to the detriment of small businesses. On the basis of this record, we have no reason to object to GSA's procurement approach as we find such an approach is necessary to meet the agency's minimum needs.

We deny the protest.⁴

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⁴Advanced Elevator also protests the rejection of its proposal. GSA rejected Advanced Elevator's proposal because it included a price for only selected buildings within Groups 1, 2, and 5. We note the RFP specifically required that proposals include prices for all buildings within a group, i.e., the buildings within a group were bundled. Advanced Elevator chose to ignore the RFP instructions; consequently, the agency properly rejected its proposal.