



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: American Connecting Source d/b/a Connections

File: B-276889

Date: July 1, 1997

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Mark Langstein, Esq., and Alden F. Abbott, Esq., Department of Commerce, for the agency.

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DIGEST

Where solicitation for conference facilities limited competition to hotels within a five block area of the main agency headquarters, the protester's proposal was properly excluded from the competitive range after agency evaluators determined that the protester's offered facility was located beyond the geographic area specified in the solicitation.

DECISION

American Connecting Source d/b/a Connections protests the award of a contract to the J.W. Marriott Hotel, Washington, D.C., by the Department of Commerce pursuant to request for proposals (RFP) No. 52-DKEX-7-90016, issued to procure conference facilities for the Bureau of Export Administration's Annual Update Conference on strategic trade issues. Connections argues that its proposal, offering conference facilities at the Grand Hyatt Washington Hotel, was improperly excluded from the competitive range because the agency erroneously concluded that the hotel was located outside the geographic limitation set forth in the RFP.¹

We deny the protest.

¹Connections also challenges the agency's exclusion of its proposal on the basis that it does not meet the requisite space requirements, and other evaluation conclusions. Since we find that the agency properly determined that Connections's offered hotel was outside the geographic proximity requirement, and Connections thus is not eligible for award, we need not reach Connections's other challenges to its evaluation.

The Commerce Department issued the RFP here on January 31, 1997, seeking conference and hotel facilities and associated services for the July 1997 conference, and for 2 option years. The statement of work specified the characteristics of several needed rooms, including three rooms capable of accommodating at least 350 conferees, and one capable of accommodating 250 conferees. The RFP also stipulated that offered facilities be located no more than five blocks from the main building of the Department of Commerce. Specifically, section B-9 of the RFP provided:

"The conference facility must be a walking distance of no more than five blocks to the Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. This restriction is critical due to the high level of participants by the Department of Commerce upper management and employees, and reimbursements for cab fare and metro subway fare would be costly. Also, the use of public transportation would not allow for time flexibility crucial to program format and would increase participants' time away from the office."

The Department received two proposals by the March 11 closing date: one from the J.W. Marriott, located at the corner of 14th and Pennsylvania Avenue, N.W., across the street from the main Commerce building; one from Connections, offering the Grand Hyatt, located at 10th and H Streets, N.W. Although the agency evaluated Connections's proposal on each of the three evaluation factors set forth in the RFP, it did not evaluate Connections's price after the evaluators determined that the proposal was unacceptable and should be excluded from the competitive range because it offered a facility more than five blocks from the Department of Commerce. At the conclusion of the evaluation, award was made to the J.W. Marriott at a price of \$552,120 for the base year and both option years. This protest followed.

Connections argues that the agency wrongly concluded that the Grand Hyatt is located more than five blocks from the Department of Commerce. As discussed below, Connections's urged interpretation appears to be based on both an unlikely pedestrian route, and an unreasonable assumption that certain kinds of streets should not be counted as forming blocks. Alternatively, Connections argues that the solicitation's five-block requirement was ambiguous and therefore should not be strictly construed. In this regard, Connections contends that city blocks in downtown Washington are of various sizes, and urges that our Office adopt a definition of a block based on a length of distance equal to one of the longest blocks Connections can identify. We are unpersuaded by both arguments.

As a preliminary matter, Connections's arguments that the term "block" is imprecise and should be broadly interpreted, are, in essence, claims that the solicitation was ambiguous on its face. In this regard, Connections urges that the RFP's five-block requirement should not be interpreted literally, but should instead be viewed as a

requirement that offered facilities be within an easy walking distance, or alternatively, should be interpreted with some fixed distance assigned for each block. While we are not convinced by this record that the term "block" as used here is ambiguous, any uncertainty about this issue was apparent from the face of the solicitation and thus constituted a patent ambiguity. In such situations, offerors may not simply make unilateral assumptions regarding the meaning of patently ambiguous terms in the RFP and then expect relief when the agency does not act in the manner the offeror assumed.² Rather, the offeror must challenge the alleged ambiguity prior to the time set for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1) (1997); Christie Constructors, Inc., B-271759; B-271759.2, July 23, 1996, 96-2 CPD ¶ 87 at 6.

With respect to Connections's substantive challenge to its evaluation, we note first that agencies may properly restrict procurements to offerors within a specified geographical area if the restriction is reasonably necessary for the agency to meet its minimum needs. NFI Management Co., B-240788, Dec. 12, 1990, 90-2 CPD ¶ 484 at 2. Where, as here, a dispute exists as to the actual meaning of a solicitation requirement like this one, we read the solicitation as a whole and in a manner that gives effect to all provisions of the solicitation. Dr. Carole J. Barry, B-271248, June 28, 1996, 96-1 CPD ¶ 292 at 4.

Our review of the record--supplemented by our own familiarity with the Washington, D.C. area--leads us to conclude that the agency correctly determined that the Grand Hyatt is more than five blocks from the Department of Commerce. The Grand Hyatt is located on a block bounded by 10th and 11th Streets, on the east and west, respectively, and by G and H Streets, on the south and north, respectively. The Department of Commerce is located on a block bounded by 14th and 15th Streets on the east and west, respectively, and by Constitution and Pennsylvania Avenues on the south and north, respectively. Our review of maps provided by the protester and the agency, including one distributed by the Grand Hyatt itself, shows that any route between these two locations--using any definition

²We note, for example, that in the protester's comments on the agency report, a representative of the protester acknowledges that she was concerned that the Grand Hyatt might be outside the five-block limitation in the RFP. As part of an effort to ascertain this fact, the record shows that this individual contacted the Washington, D.C. Convention and Visitors Association and was erroneously advised by them that the Grand Hyatt was within five blocks of the Department of Commerce. While we understand that the protester relied to its detriment on this erroneous information, these events do not provide a basis to overturn the agency's evaluation decision. See Thresholds Unlimited, Inc.--Recon., B-248817.3, Aug. 12, 1992, 92-2 CPD ¶ 102 at 2 (protester's reliance on erroneous advice from a Congressional office about our timeliness rules did not excuse an untimely protest filing).

of a block in common parlance--is at least six blocks in length.³ In fact, it appears that the more likely pedestrian routes between these two locations would involve traversing seven blocks or more.

Connections argues, however, that the Grand Hyatt is only five blocks from the Department of Commerce if one takes a route departing from the east side of the Grand Hyatt--away from the Department of Commerce--south on 10th Street across G, F, and E Streets, and then across Pennsylvania Avenue to the intersection of 10th and Constitution Avenue. This route then follows Constitution west to the south entrance of the Commerce Department on Constitution between 14th and 15th Streets--the entrance farthest away from the Grand Hyatt. In order to claim that this route is only five blocks, Connections counts blocks as follows: on 10th from G to F (1 block), F to E (1 block), E to Pennsylvania (1/2 block), and Pennsylvania to Constitution (1/2 block); then on Constitution from 10th to 12th (1 block), and from 12th to 14th (1 block). Not only is Connections's argument based on an unlikely pedestrian route (since it posits exiting the hotel from the side away from the Commerce Department and entering the Department on the side farthest from the hotel), but Connections calculates a five-block total for this route by not counting Pennsylvania Avenue--which bisects 10th between E and Constitution--and because 11th and 13th Streets do not bisect Constitution Avenue--creating two very long blocks. Simply put, we consider the protester's "five-block" route an unpersuasive substitute for the agency's reasonable determination that Connections was offering a hotel outside the five-block limit. Collington Assocs., B-231788, Oct. 18, 1988, 88-2 CPD ¶ 363 at 3.

The protest is denied.

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³The term "block" has two meanings relevant to this discussion. A block is "a usually rectangular space (as in a city) enclosed by streets and occupied by or intended for buildings" and a block is "the distance along one of the sides of such a block." Webster's Ninth New Collegiate Dictionary (1989).