



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Northwest Management, Inc.

File: B-277503

Date: October 20, 1997

Vincent P. Corrao and James W. Garrett for the protester.
Richard Salazar, Department of Agriculture, for the agency.
Jennifer Westfall-McGrail, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably determined that (1) protester's quotation presented some performance risk where protester had not clearly identified its work force as required by the solicitation and had no experience using the particular methodology to be applied under the solicitation; and (2) given this risk, protester's quotation did not offer the best value to the government despite its slightly lower price.

DECISION

Northwest Management, Inc. protests the issuance, by the Forest Service, Department of Agriculture, of a purchase order for stream surveys on the Lolo Creek Drainage in Clearwater National Forest, Idaho to Clearwater BioStudies, Inc. under request for quotations (RFQ) No. R1-5-97-21. The protester argues that it should have received the purchase order because its quotation represented a better value to the government than Clearwater's.

We deny the protest.

The RFQ sought a contractor (or contractors) to collect, and compile into a report, stream stability and fish habitat data on streams within the Clearwater National Forest. The streams to be surveyed were grouped under three items: Lolo Creek Drainage, Pete King Creek Drainage, and Canyon Creek Drainage. Vendors were advised that more than one purchase order might be issued. Vendors were further advised that selection of a contractor (or contractors) would be based on the following criteria, and that a narrative response to the criteria was to be submitted with the quotation:

qualifications and credentials of personnel who will be assigned to supervise and perform the work;

past performance, including ability to produce a final report detailing existing conditions, limiting factors, population statistics, and recommended habitat improvement actions;¹

experience of personnel in the project area or similar geographic areas; and

firm's ability to undertake and complete this project on time.

The RFQ also indicated that firms' prices would be evaluated.²

Northwest submitted a quotation totaling \$20,996.10 for item No. 1 (Lolo Creek Drainage) only. Clearwater submitted prices for all three items; its price for item No. 1 was \$21,023.70 (i.e., \$27.60 more than Northwest's). On July 1, the contracting officer notified Clearwater that it had been selected to perform the work under all three item numbers. Northwest was notified of the selection of Clearwater on July 7 and protested to our Office on July 14.³

¹To demonstrate compliance with this criterion, offerors were instructed to cite contracts for similar work with the Forest Service and other agencies, and to include two reports from similar projects completed by the team to be assigned to this project.

²Although the RFQ specified the criteria to be used in evaluating quotations, it did not state the basis for source selection--that is, whether a purchase order would be issued to the lowest-priced, qualified firm or to the firm whose quotation represented the best value to the government. The agency states that it made its selection on a "best value" basis, however, and the protester appears to have understood the RFQ as providing for selection on that basis. In this regard, the protester does not argue that it was entitled to selection as the lowest-priced qualified firm, but rather that its quotation represented the best value to the government. Moreover, even assuming that Northwest did understand the solicitation as providing for selection of the lowest-priced, qualified firm, it was not prejudiced by the agency's action since it was not the lowest-priced, qualified firm on item No. 1; a third qualified firm, not a party to this protest, quoted a price lower than either Northwest's or Clearwater's for item No. 1.

³In commenting on the agency report, the protester objects to the agency's failure to suspend performance pending resolution of its protest before our Office. Northwest contends that performance should have been suspended because it filed its protest within 7 days after learning that it had not received the award.

(continued...)

Northwest objects to the award of item No. 1 to Clearwater. The protester alleges that the agency failed to consider its quotation because it was for one item only and the agency wished to avoid making multiple awards, despite the fact that the RFQ provided for them. In this regard, the protester states that one of the evaluators told its representative that the contracting officer stated that "he saw no reason to award to more than one contractor." Protester's Comments, Sept. 2, 1997, at 2. In the alternative, the protester argues that the agency lacked a reasonable basis for passing over its quotation in favor of Clearwater's higher-priced one.

The contracting officer denies that Northwest's quotation was excluded from consideration because the protester had quoted a price for the item No. 1 work only. The contracting officer explains that the quotation was evaluated--a claim which is supported by the existence of evaluator worksheets assessing the strengths and weaknesses of Northwest's narrative response to the evaluation criteria--but that it was not selected, because, in the contracting officer's judgment, it did not represent the best value to the government.

Given the worksheets, we see no reason to question the contracting officer's explanation. Moreover, even if, as the protester alleges, the contracting officer did state, prior to the selection, that he saw no reason to select more than one vendor, we do not think that this statement implies that any vendor not quoting on all three items had been excluded from consideration. Rather, the more reasonable interpretation of the statement is that the contracting officer had concluded, based upon his review of the quotations, that the same firm represented the best value under all three items and that it had the capability to perform all three.

In response to the protester's second allegation, the contracting officer explains that he selected Clearwater over Northwest because he saw some risk of the agency's not receiving timely, accurate data from the latter firm, and decided that this risk was not worth Northwest's \$27.60 price advantage. The contracting officer's conclusion was based on Northwest's omission of information called for by the RFQ, specifically, its failure to identify all of the individuals on its data collection team and its failure to furnish evidence that its team has previously performed a

³(...continued)

An agency is required to suspend contract performance only if it receives notice of a protest from our Office within 10 calendar days after the date of contract award, 31 U.S.C. § 3553(d)(3) (1994). Here, the purchase order was issued on July 1, but Northwest did not file its protest with our Office until July 14 (and the agency was not notified of the protest until July 15). The protester explains that it did not file its protest sooner because it was not notified of the award until July 7. Delay by an agency in notifying a protester of an award does not provide a basis for extending the time period for obtaining a suspension of contract performance, however. See United States Pollution Control, Inc., B-225372, Jan. 29, 1987, 87-1 CPD ¶ 96 at 4 n.3.

study using the methodology prescribed by the solicitation here. With regard to the study requirement, the contracting officer notes that the reports furnished by the protester in response to the solicitation requirement for "two reports from similar projects completed by the team to be assigned to this project" were coauthored by an individual not proposed by Northwest as a team member for this project; that none of the proposed team members, other than the principal investigator, was involved in the data collection or writing of the reports; that the reports did not reflect the use of the technique required under this RFQ; and that the reports were not produced by Northwest.⁴

Northwest takes issue with the contracting officer's conclusion. The protester maintains that it did identify all members of its team, and that the contracting officer therefore had no reason to be concerned about its ability to recruit and train qualified personnel. Northwest further argues that the contracting officer should have accepted the reports that it furnished as evidence of its ability to perform despite the fact that they used different methodologies than the methodology required here and the fact that most of the team members proposed here had no involvement in producing them. In the latter regard, the protester contends that any potential contractor is likely to experience some staff turnover, and, thus, that none is likely to be able to furnish a report worked on by the entire team that it proposes here.

When an agency evaluation is challenged, we will examine that evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria. Carol Solomon & Assocs., B-271713, July 19, 1996, 96-2 CPD ¶ 28 at 2. Based on our review of the record here, we think that the agency's criticisms of the protester's proposal were valid, and that they furnished it with a reasonable basis for concluding that selection of Northwest would entail greater performance risk than selection of Clearwater.

⁴The contemporaneous evaluation record consists of the worksheets prepared by the two evaluators, addressing the strengths and weaknesses of each proposal. In response to the protest, the contracting officer prepared a statement discussing in more detail the specific findings that led to the selection decision. While we give greater weight to contemporaneous evidence, DynCorp, 71 Comp. Gen. 129, 134 n.12 (1991), 91-2 CPD ¶ 575 at 7 n.13, here we view the agency's post-protest documentation as simply filling in previously unrecorded details, rather than creating a new, post hoc rationale. Moreover, this procurement was conducted using simplified acquisition procedures, and the applicable regulatory provision, Federal Acquisition Regulation § 13.106-2(d)(4), specifically provides that documentation should be kept to a minimum in such procurements. Accordingly, we will consider all the information provided by the agency in reviewing the reasonableness of its decision.

First, although the protester claims that it did identify all members of its team, our review of its quotation shows that this is simply not true. While Northwest identified 10 individuals whom it was considering for positions as stream survey crew leaders, it identified none of the crew members who were to assist the crew leaders in collecting data.

Northwest attempts to discount the omission of this information, arguing that it is fully qualified to perform the work based on its years of experience in the field, and asserting that its qualifications could have been confirmed had the agency contacted its prior clients. The RFQ put firms on notice that they had to furnish specific information regarding their team composition. It was the firms' responsibility to submit adequately written quotations which could be evaluated in accordance with the criteria in the solicitation. It is well established that, no matter how competent a firm may be, it runs the risk of not being selected for award if it fails to submit an adequately written offer (or quotation, as in this case). INFOCUS Communications, B-256244, May 31, 1994, 94-1 CPD ¶ 330 at 5-6.

We think that the contracting officer reasonably concluded, based on Northwest's failure to identify a team of individuals committed to this particular project, that it was possible that the protester would need to recruit additional personnel to complete the project, and that this introduced an element of risk into its chances of completing the project on schedule.

Regarding the protester's second argument, we think that the contracting officer reasonably concluded that the reports furnished by Northwest, which had not been completed by the team to be assigned to this project and which did not reflect the use of the technique required here, did not demonstrate that the protester had the ability to produce a satisfactory final report under the RFQ here. Northwest did not propose a team that was slightly different from the team that had worked on those reports, as its argument regarding staff turnover implies; it proposed a team that was, with the exception of its principal investigator, completely different.

In comparison, with respect to the quotation submitted by the awardee, the contracting officer concluded that the firm had demonstrated "a proven track record of providing the [agency] with accurate and timely data, responsive and cooperative behavior, a thorough understanding of the biological and logistical variables which may be encountered, and experienced and competent people." Contracting Officer's Statement at p. F-3. The protester does not challenge these conclusions, and we see no basis in the record to question them.

In sum, we see no basis in the record to find unreasonable the contracting officer's conclusion that there was greater performance risk associated with an award to Northwest than with an award to Clearwater and that this risk was not compensated for by Northwest's de minimis price advantage of \$27.60.

The protest is denied.

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