Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Aalco Forwarding, Inc., et al.

File: B-277241.12; B-277241.13

Date: December 29, 1997

Alan F. Wohlstetter, Esq., and Stanley I. Goldman, Esq., Denning & Wohlstetter; James M. McHale, Esq., Seyfarth, Shaw, Fairweather & Geraldson; Thomas M. Auchincloss, Jr., Esq., Leo C. Franey, Esq., and Brian L. Troiano, Esq., Rea, Cross & Auchincloss, for the protesters.
Thomas J. Duffy, Esq., Maj. Jonathan C. Guden, and Ramon Morales, Esq., Department of the Army, for the agency.
David R. Kohler, Esq., and Timothy C. Treanor, Esq., for the United States Small Business Administration.
Adam Vodraska, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

In a solicitation implementing a pilot program to reengineer the Department of Defense's current program for the shipment and storage of the personal property of military service members and civilian employees, challenged requirements that each offeror serve all points in a traffic channel and that each offeror provide both household goods and unaccompanied baggage transportation services do not constitute improper bundling of requirements, where they reasonably reflect the agency's needs and are necessary to implement the pilot program's goals of reducing administrative burdens on the agency and improving the reliability and quality of service.

DECISION

Aalco Forwarding, Inc. and 96 other self-certified small business concerns protest the terms of request for proposals (RFP) No. DAMT01-97-R-3001, issued by the Military Traffic Management Command (MTMC), Department of the Army, for all personnel, equipment, materials, supervision, and other items necessary to provide transportation and transportation-related services for 50 percent of the eligible Department of Defense (DOD) and United States Coast Guard-sponsored personal property shipments from North Carolina, South Carolina, and Florida, to any or all of 13 destination regions in the continental United States (CONUS) and/or any or all of 5 destination regions in Europe.[1] The solicitation implements a pilot program to reengineer DOD's current program for shipping and storing the personal property of its military service members and civilian employees. In these protests, the protesters contend that the RFP unnecessarily bundles certain contract requirements to the detriment of small business concerns.

The protests are denied.

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[1]The following firms are involved in these protests: Aalco Forwarding, Inc.; AAAA Forwarding, Inc.; Air Van Lines International, Inc.; Allstates Worldwide Movers; Aloha Worldwide Forwarders, Inc.; Alumni International, Inc.; American Heritage International Forwarding, Inc.; American Shipping, Inc.; American World Forwarders, Inc.; Apollo Forwarders, Inc.; Arnold International Movers, Inc.; Astron Forwarding Company; BINL Incorporated; Burnham Service Company, Inc.; Cavalier Forwarding, Inc.; Classic Forwarding, Inc.; Davidson Forwarding Company; Deseret Forwarding International, Inc.; Foremost Forwarders, Inc.; Gateways International, Inc.; Great American Forwarders, Inc.; Hi-Line Forwarders, Inc.; International Services, Inc.; Island Forwarding, Inc.; Katy Van Lines, Inc.; Lincoln Moving & Storage; Miller Forwarding, Inc.; Northwest Consolidators; Ocean Air International, Inc.; Senate Forwarding, Inc.; Shoreline International, Inc.; Stevens Forwarders, Inc.; Von Der Ahe International, Inc.; Wold International, Inc.; Zenith Forwarders, Inc.; Acorn International Forwarding Company; AAA Systems, Inc.; A.C.E. International Forwarders; Apex Forwarding Company, Inc.; Armstrong International, Inc.; Art International Forwarding, Inc.; Coast Transfer Company, Inc.; Crystal Forwarding, Inc.; CTC Forwarding Company, Inc.; Diamond Forwarding, Inc.; Dyer International, Inc.; Harbour Forwarding Company, Inc.; HC&D Forwarders International, Inc.; Jag International, Inc.; The Kenderes Group, Inc.; Pearl Forwarding, Inc.; Rainier Overseas, Inc.; Rivers Forwarding, Inc.; Ryans's World; Sequoia Forwarding Company, Inc.; A-1 Relocation, Inc. d/b/a A-1 Movers of America; A-1 Moving & Storage, Inc.; Able Forwarders, Inc.; Andrews Van Lines, Inc.; A. Arnold & Son Transfer & Storage Company, Inc.; Art and Paul Moving & Storage; Associated Forwarding, Inc.; Associated Storage and Van, Inc.; Carlyle Van Lines, Inc.; Carrier Transport International, Inc.; Coastal Moving Company, Inc.; Conrad Group, Inc.; Davidson Transfer & Storage Co., Inc.; Denoyer Brothers Moving & Storage Co.; Door To Door Moving & Storage Co.; Exhibit Transport, Inc.; Ferriss Warehouse & Storage Co.; Fogarty Van Lines, Inc.; Horne Storage Company, Inc.; Lynn Moving and Storage, Inc.; A.D. McMullen, Inc.; Mid-State Moving & Storage Inc.; Movers Unlimited, Inc.; Nilson Van & Storage; Northwest Consolidators, Inc.; Ogden Transfer & Storage, Co.; OK Transfer & Storage, Inc.; Pan American Van Lines, Inc.; Riverbend Moving & Storage, Inc.; Royal Forwarding, Inc.; Sells Service, Inc.; South Hills Movers, Inc.; Stanley's Transfer Company, Inc.; Starck Van Lines, Inc.; StarTrans International, Inc.; Stearns Forwarders, Inc.; Stearns Moving & Storage of Kokomo, Inc.; Von Der Ahe Van Lines, Inc.; Wainwright Transfer Co. of Fayetteville, Inc.; and Weathers Bros. Transfer Co.-NC.

This procurement was the subject of a prior decision in Aalco Forwarding, Inc., et al., B-277241.8, B-277241.9, Oct. 21, 1997, 97-2 CPD ¶ 110, which denied various protests primarily against the acquisition of these services under Federal Acquisition Regulation (FAR) part 12 commercial item procedures. That decision contains much of the background for this procurement, which will not be repeated here.

As described in our earlier decision, the current program is administratively burdensome for MTMC. Currently, a DOD shipping office (which covers shipments from a relatively small area) may have to contact several carriers on its traffic distribution roster before finding a carrier willing to accept a shipment, and each move involves significant amounts of paperwork. MTMC reports that resource constraints at its shipping offices have reduced the functions those offices customarily perform (such as movement counseling and quality control monitoring). Because of these resource constraints, as well as problems experienced with the quality of services provided by moving companies, MTMC reports that it cannot continue to do business under the current program and that it must find a streamlined, efficient way to move its personnel while ensuring high quality moves. Reflecting these concerns, the reengineering effort aims to improve the quality of personal property shipment and storage services provided to DOD, and to simplify the administration of the program so as to be able to focus more of the resources of the shipping offices towards customer service and away from the administrative burdens associated with the current program. Various congressional committees agreed that MTMC must pursue a higher level of service from the moving industry with greater reliance on commercial standards of service and business practices.[2]

MTMC's market research and benchmarking survey revealed that large commercial shippers and other organizations had successfully reengineered their employee relocation programs to obtain superior service, reduce administrative burdens, and adopt better business practices. In particular, many of these organizations have contracted with one prime contractor or a small number of prime contractors to ship an employee's household effects anywhere that is required (rather than using multiple vendors for the various segments of the move), utilized "one-stop shopping" (one point of contact for assistance to the employee), and outsourced various aspects of the management of the relocation process to the contractor.

In implementing the pilot program through this solicitation, MTMC seeks to emulate these commercial practices. The agency recognizes, however, that not all of these practices can be adopted without modification by DOD. For example, while a large commercial shipper contracting for moving services may have contracts with a small number of companies (or even only one) who commit to shipping a customer's household goods anywhere (at least domestically), such an arrangement is not feasible for DOD, given the large number of moves (hundreds of thousands

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[2]H.R. Conf. Rep. No. 104-450, at 762 (1996); H.R. Rep. No. 104-131, at 164 (1995).

each year) of service members and employees throughout the nation and the world. Rather, MTMC considered a variety of contract approaches for dividing its traffic among contractors in order to meet its needs to reengineer the program. During the planning process, MTMC invited and received comments from industry.

In response to congressional direction to assess the impact of the proposed pilot program on small business concerns,[3] MTMC proposed, in order to accommodate small business concerns, to award a single contract for each "traffic lane," that is, for all shipments from an origin shipping office's relatively small area of responsibility to a destination shipping office's area of responsibility. However, many household goods industry representatives objected to the single-award, "winner-take-all" nature of this proposal. In addition, some companies told MTMC that this proposal would be administratively burdensome, because thousands of contracts would need to be let and administered by the agency in order to have a separate contract covering every possible combination of shipping offices. MTMC also reached this conclusion, calculating that between 9,000 and 17,000 separate contracts would be needed, which it states it does not have the resources to manage. MTMC thereafter informed congressional committees in an updated small business impact report that, because of opposition from industry and concerns about administrative burden, it was replacing its "winner-take-all" traffic lane concept with a pilot contemplating multiple awards for all transportation services from a single multi-state origin region. Industry opposed this latter pilot proposal as well because of the large geographic scope of such an approach.

Following congressional direction to DOD and industry to reach a mutually agreeable program to pilot,[4] a DOD/industry working group convened and came to a consensus on a number of issues including that the pilot program should be based on "traffic channels," each of which covers all traffic from an origin state (encompassing all shipping offices within the state) to a destination region (encompassing all shipping offices within a multi-state or overseas region). However, the DOD/industry working group could not reach agreement on the approach to take for the pilot or on various details of the program, and DOD and industry presented separate pilot proposals. DOD's proposed pilot program, based on traffic channels from certain origin states to certain destination regions, became this solicitation.[5]

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[3]H.R. Conf. Rep. No. 104-344, at 58 (1995); H.R. Conf. Rep. No. 104-261, at 58 (1995).

[4]S. Rep. No. 104-267, at 270 (1996); H.R. Rep. No. 104-563, at 268 (1996).

[5]The protesters dispute the agency's characterization of the consensus agreement, essentially contending that industry would never have agreed to structuring the pilot program on a traffic channel basis if they had known the solicitation would also

(continued...)

The solicitation was issued pursuant to the commercial item procedures of FAR part 12, and contemplates the award of firm, fixed-price, indefinite quantity/indefinite delivery contracts for a base year with 2 option years. The RFP allows the government to award task order contracts for the same or similar services to either one or multiple sources; MTMC anticipates making multiple awards to various contractors for all the possible services within each traffic channel.[6] Portions of 27 of the "high volume" traffic channels are set aside for small business concerns.[7] The government will award contracts to the responsible offerors whose offers represent the best overall value based on an integrated assessment of past performance/experience, subcontracting plan, and price. After certain contract minimums are met, follow-on task orders will also be issued on a best value basis.

The protesters and the Small Business Administration (SBA) contend that the solicitation is unduly restrictive of competition by small business concerns because the RFP requires that (1) an offeror serve an entire traffic channel, and (2) that an offeror must provide transportation services for unaccompanied baggage[8] as well as for household goods. The protesters and the SBA contend that MTMC has improperly bundled into a single large contract requirements that were previously solicited and awarded separately by each shipping office. They explain that such bundling precludes otherwise qualified small business carriers from the competition because small moving companies may only have resources, facilities and/or agents

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[5](...continued)
require each offeror to commit a daily capacity and to service all shipping offices in a traffic channel, requirements that the protesters assert restrict the ability of small businesses to compete.

[6]There are 53 traffic channels in the pilot program, 38 domestic and 15 international.

[7]The protesters have also protested to our Office that the set-aside decision was unreasonable. In addition, various protests have been filed against certain provisions contained in a recently issued amendment to the solicitation. These protests will be the subject of a future decision.

[8]Unaccompanied baggage is that portion of the service member's or employee's prescribed weight allowance of personal property shipped separately from the bulk of the personal property, usually via an expedited mode, because it is needed immediately, or soon after, a member's or employee's arrival at destination for interim housekeeping pending arrival of the major portion of his or her property. According to the protesters, a small number of firms specialize in providing unaccompanied baggage transportation services, which requires consolidation and tracking of many very small shipments in a manner not required for the movement of household goods.

at one or a limited number of shipping offices within an origin state and may transport shipments only to a limited number of destinations, and may only handle household goods or unaccompanied baggage, but not both. According to the SBA:

> Presently, MTMC contracts with carriers on a case-by-case basis for moving services. Carriers offer to do the work they are able to do and do not offer on job orders that are outside the scope of their abilities. Some carriers are capable of transporting only unaccompanied baggage and thus offer only on those job orders . . . .
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> Under the terms of the solicitation, on the other hand, the successful offerors for any given channel must serve every geographic location in the origin state for that channel and every geographic location in the destination CONUS Region or foreign country for that channel. Contractors may not refuse an assignment unless they are already doing a pre-agreed level of work for MTMC. Moreover, successful offerors must move both household goods and unaccompanied baggage whenever MTMC directs them to do so.

The protesters and the SBA argue that the agency's justification for consolidating its traffic distribution system and the unaccompanied baggage and household goods moving services is not supported by personnel or budgetary reductions, and amounts to nothing more than a claim of mere administrative convenience, which is not a sufficient justification for restrictions on competition. See Airport Markings of Am., Inc., et al., 69 Comp. Gen. 511, 514 (1990), 90-1 CPD ¶ 543 at 4-5.

The Competition in Contracting Act of 1984, 10 U.S.C. § 2305(a)(1) (1994), generally requires that solicitations permit full and open competition, and contain restrictive provisions and conditions only to the extent necessary to satisfy the needs of the agency. 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. Advanced Elevator Servs., Inc., B-272340, B-272340.2, Sept. 26, 1996, 96-2 CPD ¶ 125 at 3. We review such solicitations to determine whether the approach is reasonably required to satisfy the agency's needs. Border Maintenance Serv., Inc., B-260954, B-260954.2, June 21, 1995, 95-1 CPD ¶ 287 at 2; The Sequoia Group, Inc., B-252016, May 24, 1993, 93-1 CPD ¶ 405 at 4.

It is apparent that by awarding contracts to a limited number of prime contractors responsible for each channel, rather than maintaining the current traffic distribution system, and by requiring that the contractors service both household goods and unaccompanied baggage, one of MTMC's goals is to ease the administration of its household goods shipping and storage program. The record also shows, however, that under the pilot program, MTMC's contracting on a traffic channel basis, and requiring both household goods and unaccompanied baggage transportation services from each contractor, are not solely for purposes of administrative convenience, but are driven by other goals of the reengineering program.

Specifically, MTMC reasonably determined that in order to obtain superior service, reduce administrative burdens, and adopt better business practices, it needed to consolidate the transportation services, that are currently arranged with numerous contractors on an individual order basis by each shipping office, with a program utilizing several prime contractors, who will be solely responsible for managing most aspects of the movement of the household goods and unaccompanied baggage of service members and employees.[9] The solicitation's establishment of long-term binding commitments with fewer contractors, who will potentially be provided greater shipping volumes than under the current program should help DOD achieve economies of scale. In addition, using fewer contractors should provide greater accountability of performance as well as more reliable and higher quality service. Moreover, the solicitation's best value selection criteria for initial awards and for follow-on task orders should improve service quality through greater contractor accountability, fewer claims, and increased emphasis on customer satisfaction. Finally, with fewer contracts to administer, and with some of the functions of the shipping offices (such as movement counseling) outsourced to the contractors, the agency is seeking cost savings and the flexibility to staff and manage its shipping offices according to its needs. This includes focusing more of the attention of shipping office staff on providing customer service, rather than administering the burdensome traffic distribution process of the current system.

Likewise, the solicitation's requirement that contractors service both unaccompanied baggage and household goods is a reasonable need of the agency. The use of a single contractor for each move will allow for "one-stop shopping" and alleviate the burden associated with administering the household goods and unaccompanied baggage programs on a separate basis. In addition, combining the two programs under the solicitation advances the goals of the reengineering effort by subjecting each contractor to the same requirements designed to improve the quality of the moving and storage program, such as higher liability limits for lost and damaged goods, direct claims procedures, and contractor responsibility for the entire shipment of a service member's or employee's household goods, regardless of the arrangements made by each contractor to transport the various components of the shipment. While we appreciate the distinction the protesters and the SBA have described between the transportation of unaccompanied baggage and household goods, they have not persuasively shown why requiring contractors to service both

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[9]In making multiple awards to different contractors on a traffic channel basis, the agency is also mitigating the "winner-take-all" aspect and the large geographic scope of the earlier proposals for the pilot program objected to by industry, while being able to let and administer a manageable number of contracts.

types of requirements under the solicitation is unreasonable, given the goals of the reengineering effort.

In sum, the award of contracts on a traffic channel basis and the requirement that the contractors provide both household goods and unaccompanied baggage transportation services reasonably reflect the agency's needs under the pilot program, and, accordingly, the agency may so structure its solicitation, even if this means that some small businesses are less able to compete.[10] See Border Maintenance Serv., Inc., supra, at 3-4.

The protests are denied.

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of the United States

[10]The protesters contend that the requirement for offerors to commit daily capacity at each shipping office in each origin state is unreasonable and unduly restricts the ability of small business carriers to compete for contracts because small business may not be able to obtain agency representation at certain shipping offices with low traffic volumes. However, as stated in our previous decision, we believe that the agency has reasonably established a need for the committed daily capacity requirement. Aalco Forwarding, Inc., et al., supra, at 20.