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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Guilford Glazer
File: B-242737
Date: May 24, 1991

Ira J. Smotherman, Jr., Esq., Shapiro, Fussell, Wedge & Smotherman, for the protester.
Gabriel N. Steinberg, Esq., General Services Administration, for the agency.
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DIGEST

Contracting agency properly rejected protester's offer for leased space where the solicitation required offered space to have a potential for efficient layout but the protester's space contained inherent structural limitations, which, based upon the tenant agency's needs, precluded efficient layout.

DECISION

Guilford Glazer protests the rejection of its proposal under solicitation for offers (SFO) No. RGA90285, issued by the General Services Administration (GSA), for office space in Atlanta, Georgia.

We deny the protest.

The solicitation was issued to obtain approximately 56,000 net usable square feet of office and related space, and 111 parking spaces for the Federal Bureau of Investigation (FBI) in Atlanta, Georgia, under a firm 20-year term lease. The SFO stated that only space located in a quality building with a potential for efficient layout would be considered. Paragraph 4.4 of the SFO stated "the design of space offered must be conducive to efficient layout and good utilization." Award was to be made to the offeror whose offer was the most advantageous to the government, price and other award factors considered. These award factors were listed in the SFO in descending order of importance as: (1) building quality and amenities, (2) parking, (3) availability of public transportation, and (4) layout potential.

As part of a market survey, GSA, on October 7, 1990, advertised the procurement for leased space in the Atlanta Journal/Constitution newspaper and sent flyers describing the procurement to firms on a GSA mailing list. GSA requested all interested parties to identify prospective locations for inspection by late October so that GSA could determine whether potential space met the FBI's requirements. Regarding Glazer's proposed office space, located at 1720 Peachtree Street, Atlanta, Georgia, GSA received two responses from different agents for Glazer on October 17 and 18, respectively. GSA did not survey Glazer's building at that time because one of these agents subsequently advised GSA that Glazer was no longer interested in the requirement. GSA conducted physical inspections of the other properties from October 30 to November 2.

On November 9, GSA issued the SFO to those potential offerors whose space, based upon the market survey, met the RFP's minimum requirements. On November 12, Glazer's other agent informed GSA of Glazer's continued interest in offering the Peachtree Street space. In response, GSA furnished Glazer a copy of the SFO, with a cover letter that cautioned that the proposed space would still "be subject to government inspection and approval upon receipt of the offer." On November 30, GSA received initial offers, including a proposal from Glazer.

On December 10, after a physical inspection by GSA and FBI officials, GSA determined that Glazer's offered space did not meet the minimum SFO requirement that the space was not "conducive to efficient layout and good utilization." By letter dated December 13, GSA informed Glazer that its proposal was being rejected for the following reasons:

"Bay depth to required path of egress (i.e. exterior wall to fire corridor) is only 30 feet throughout approximately 50 [percent] of the space offered.

"Within the 30 foot bays, columns are inset an additional 8 feet from the path of egress, leaving only a 22 foot span of space. Efficient utilization of the 8 feet between the columns and the path of egress would be virtually impossible, in light of the proposed user's requirements.

"The above factors combined with the proposed three story layout (i.e. the same inefficiencies would be encountered on each floor), would present an unacceptable situation for the proposed user. It would not be prudent for the Government to enter into a 20-year, firm term Lease agreement under circumstances which are not only unfavorable and

inefficient in light of current requirements, but provide no flexibility, due to structural limitations, for changes which will inevitably occur throughout 20 years of occupancy."

On December 20, Glazer requested that GSA reevaluate its decision to reject its proposal and in the alternative protested the rejection of its space. On January 14, 1991, GSA responded in greater detail as to why the space was rejected. Glazer then filed this protest on January 24.

Glazer contends that GSA improperly rejected its proposal because the SFO allegedly did not include "layout potential" as a minimum requirement.^{1/} Glazer asserts that "layout potential" was only the least important award evaluation factor. Thus, Glazer argues that its proposal should not have been summarily rejected but should have been evaluated with layout potential given appropriate weight in accordance with the SFO's award factors. Glazer further asserts that its proposal was improperly evaluated in any event.

We find that the SFO specifically identified efficient layout as a minimum requirement. Contrary to Glazer's argument, paragraph 1.4 of the SFO was not the complete list of the minimum requirements. For example, the requirements that space be in a designated area in Atlanta and contain 56,000 net usable square feet were not listed in this paragraph. Similarly, paragraph 4.4 of the SFO, as indicated above, required space "conducive to efficient layout." Thus, while it is true that layout potential was listed as an evaluation criterion, we think the SFO clearly established that potential for efficient layout was a minimum requirement, and that offers for space that had no potential for efficient layout would be unacceptable. See Collington Assocs., B-231788, Oct. 18, 1988, 88-2 CPD ¶ 363 (proposal for a lease can be rejected without regard to other evaluation factors where it does not meet a minimum SFO requirement).

We also find the agency's reasons for rejecting Glazer's proposal were reasonable. The reasons why Glazer's space was considered unacceptable are set forth in GSA's December 13 letter (quoted above). That is, Glazer's space was determined not to have a potential for layout efficiency because of

^{1/} Under paragraph 1.4, the SFO listed the following as unique requirements of the space: (1) accessible 24 hours a day; (2) 10,000 net usable square feet expansion capability; (3) all space (except photo lab) must be contiguous; (4) internal stairwell between floors; (5) minimum floorplate of 13,000 net usable square feet; (6) vehicle maintenance facility on site or within 1/3 mile; and (7) freight elevator.

inherent structural limitations in light of FBI's requirements for space capable of periodic realignment to accommodate increased personnel and furniture. According to GSA and FBI, the 22-foot span of clear space actually available for utilization on each floor, as well as the building's column spacing, bay depth, and other structural restrictions, made furniture configuration virtually impossible.

Glazer has not shown that GSA's and FBI's concerns about its space are not legitimate or that the FBI requirements are unreasonable. Nor does Glazer claim that it could modify the space to address the government's concerns. Instead, Glazer argues that GSA's rejection of its property was unreasonable because it leases space in the Peachtree Street building for occupancy by other federal agencies and it leases space to the FBI in Birmingham, Alabama, in a building similar to the Peachtree Street space.

As noted by GSA, the FBI, a law enforcement agency, has space requirements that are different from other federal agencies. This seems reasonable because of FBI's special security requirements and the need for flexibility in its space to respond to its evolving mission. GSA also persuasively responds that the minimum needs of the Atlanta FBI office are different from those of Birmingham, which is a much smaller office with less personnel and responsibilities; much more flexibility is required for the Atlanta office, particularly given the 20-year lease term. For example, GSA reports that the FBI Atlanta Office, which is one of seven major FBI hubs in the United States, performs coordinating responsibilities for all FBI offices in the southeastern United States, which include national and international tasks such as "Bank Failures and Drug Trafficking." The FBI indicates further that the Atlanta office is a rapidly growing one which will be faced with investigative and administrative challenges involving, among other things, the 1994 Superbowl and 1996 Olympics, which will necessitate an increase in the office's personnel and furniture.

Under the circumstances, in the absence of any evidence that the Peachtree Street space will satisfy the agency's requirements and since Glazer does not contend that it could alter this space to satisfy the agency's concerns, we find that GSA had a reasonable basis for rejecting Glazer's proposal without further consideration.

The protest is denied.

Robert P. Murphy
for James F Hinchman
General Counsel