



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

Decision

Matter of: Home Federal Savings and Loan Association of
San Francisco

File: B-255663

Date: February 2, 1994

Marek S. McCallum, Esq., Wilkes, Artis, Hedrick & Lane, for the protester.

Emily C. Hewitt, Esq., Donald R. Jayne, Esq., and Robin E. Goodno, Esq., General Services Administration, for the agency.

Richard P. Burkard, Esq., and John Van Schaik, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Allegation that solicitation amendment did not afford the protester sufficient time to respond before submitting its best and final offer is denied where record shows that the amendment merely relaxed an existing requirement contained in the solicitation.
2. Where agency is procuring the lease of office space and is currently housed in protester's building, allegation that agency improperly required, during discussions, that the protester propose temporary "swing space" which agency could occupy while protester performed necessary renovations is denied since record shows that agency has not, in fact, required that protester propose such space.

DECISION

Home Federal Savings and Loan Association of San Francisco protests the amended terms of solicitation for offers (SFO) No. RCA 92157, issued by the General Services Administration (GSA) for the lease of up to 7,056 net usable square feet of office space for use by the Social Security Administration (SSA) in Fremont, California. Home Federal, the lessor of the current SSA office space, alleges that an RFP amendment, which changed the RFP's seismic certification requirement, did not afford it sufficient time to respond. In addition, the protester complains that GSA has improperly required that Home Federal provide temporary "swing space" for SSA employees while Home Federal performs necessary renovations to the currently leased space. Although the agency has

received best and final offers (BAFO), no award has been made pending our decision.

We deny the protest.

The SFO, as issued on February 20, 1992, provided that offers would be evaluated to determine "whether the offers fully meet the seismic safety requirements of the uniform building code (UBC)" The SFO explained further that "full compliance" with the seismic safety standard:

"means the offer contains a certification by a registered structural engineer that the building conforms to seismic requirements for new construction of the current (as of the date of this solicitation) edition of the UBC."

In addition to this certification provision, the SFO provided that in some instances not relevant here, offers could demonstrate less than full compliance and still be considered for award.

The protester submitted several proposals during the course of the procurement and the agency held discussions with the protester concerning renovations that would be necessary to bring its building into compliance with the SFO requirements. During the discussions, the agency requested information regarding seismic safety and afforded Home Federal opportunities to explain in detail how it plans to complete the alterations to the building without affecting day-to-day operations of the SSA employees.

Subsequently, on October 18, 1993, GSA issued SFO amendment No. 7, which changed the terms of the seismic certification standard. Specifically, while the certification requirement for newly constructed buildings remained as stated in the original SFO, for existing buildings, such as Home Federal's building, the requirement was changed so that "full compliance" requires a certification by a registered structural engineer that the building conforms to seismic requirements for new construction "in accordance with the 1976 (or later) edition of the Uniform Building Code." The protester did not receive the amendment until October 29. On that same date, Home Federal was notified that the closing date for receipt of BAFOs had been extended until November 4.

Home Federal alleges that it was provided insufficient time to adequately respond to the revised seismic certification requirement. It states that the substitution of building codes with which the property is required to comply does not involve simply changing the text of the certification. Rather, it states, the modification requires an engineer to

determine whether the building "meets an entirely different set of code parameters." The protester requests that it be given a reasonable amount of time to do this.

We do not see how the amendment could have affected Home Federal's ability to timely submit a certification. While the earlier version of the SFO required a seismic certification showing conformance with the "current . . . edition of the UBC," the amendment required a certification showing conformance with the "1976 (or later) edition of the Uniform Building Code" (emphasis added), which, of course would include the current version. Thus, there would be no need to modify a certification that complied with the RFP seismic certification requirement. Under the circumstances, we do not agree with the protester that it needed additional time to modify an existing certification, and we have no basis to object to the timeframe provided by amendment No. 7 for submission of BAFOs.

Home Federal also alleges that the agency has improperly imposed a requirement that it provide swing space into which SSA employees could be relocated during necessary renovation of the building. The protester asserts that the contracting officer indicated that the agency would "not entertain a proposal from [Home] Federal that did not provide SSA with temporary swing space." The record does not support the protester's position.

Prior to submitting its BAFO, by letter dated October 22, 1993, Home Federal provided to GSA a plan to perform the remodeling without relocating the SSA employees by doing the work during evening and weekend hours. The letter noted that while, "[s]wing space is available," relocation of SSA during the renovation "will cause more disruption and confusion to SSA than performing the alterations during non-business hours." In a November 2 letter, the contracting officer stated that she understood from Home Federal's October 22 letter that Home Federal would not make swing space available. In addition, noting that Home Federal had requested that it be permitted to accomplish the renovations at night and on weekends, the contracting officer stated that she still had questions about whether the project could be accomplished in this manner. The contracting officer's letter also requested that Home Federal answer a series of questions concerning its plan to renovate without swing space. In a second November 2 letter, the contracting officer requested that Home Federal reply to all issues raised in the earlier letter by the closing date for receipt of BAFOs.

In our view, GSA's letter invited the protester to submit a BAFO with the understanding that it would not propose swing space. While we think that the agency has concerns about

the protester's proposed approach to renovating the building, there is simply no support in the record for the protester's assertion that the agency has imposed a requirement that Home Federal propose swing space. In sum, we find this allegation to be without a factual basis.

The protest is denied.


for Robert P. Murphy,
Acting General Counsel

'In its initial protest, Home Federal also complained that it was not given sufficient time to respond to the agency's November 22 questions concerning its renovation plan. The agency explains in its administrative report, and the record shows, that the protester's plans for performing the required renovations without moving the SSA offices were the subject of numerous discussions over the course of several months. The agency's report also demonstrates that Home Federal responded to many of the questions in writing 1 day after receipt of the GSA letter and advised that additional information "will be forwarded under separate cover." In its comments, Home Federal has not responded to the agency's explanation or otherwise pursued this issue. We therefore consider the matter to be abandoned, and we will not address it. See J. M. Yurick Assocs., Inc., B-243806.2, Sept. 16, 1991, 91-2 CPD ¶ 245.