



Comptroller General
of the United States

553206

Washington, D.C. 20548

Decision

Matter of: CardioMetrix
File: B-255748.2
Date: June 13, 1994

Robert J. Loring for the protester.
C. Joseph Carroll, Esq., Federal Bureau of Prisons, for the agency.
Ralph O. White, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's contention that the awardee's failure to identify a local place of performance in its bid for radiology services renders the bid nonresponsive is denied where solicitation contains no restrictions on the geographic location of bidders, but instead contains certain time limitations applicable to emergency services that the agency concluded could be met with the use of equipment permitting electronic transmission of x-ray images to a radiologist located outside the local area.

DECISION

CardioMetrix protests the award of a contract to Southwest Radiology, P.C. under invitation for bids (IFB) No. 125-182, issued by the Federal Bureau of Prisons for radiology interpretation services at the Metropolitan Correctional Center/Federal Prison Camp in Miami, Florida. CardioMetrix argues that the Bureau of Prisons should have rejected Southwest's bid as nonresponsive because the bid named a place of performance outside the Miami area.

We deny the protest.

The IFB anticipated award of a requirements contract for radiology interpretation services for the inmate population at Miami's Metropolitan Correctional Center/Federal Prison Camp. Bidders were required to provide a unit price per x-ray interpretation. The IFB's statement of work required both standard and emergency interpretation services. For standard services, the contractor was to provide for courier pickup of x-ray film at the correctional center three times per week, followed by a written report interpreting the

x-rays within 5 days. Three types of emergency services were required: (1) telephonic response from a radiologist within 1 hour; (2) pick-up of x-ray film, by courier, within 2 hours; and (3) interpretation of x-rays within 8 hours. In addition, the IFB contained the standard Federal Acquisition Regulation (FAR) "Place of Performance" clause (FAR § 52.214-14). This clause requires bidders to indicate whether they will perform the work at a different location from the location indicated on the face of the bid documents.

Three bidders submitted bids in response to the IFB by the October 27, 1993, bid opening date. After determining that Southwest submitted the lowest-priced, responsive bid, the Bureau of Prisons awarded a contract to Southwest on January 19, 1994. When CardioMetrix was advised of the award to Southwest, it asked the agency to identify the local radiologist Southwest intended to use to provide the emergency services described above. When the Bureau of Prisons informed CardioMetrix that Southwest was not employing a local radiologist, but was instead installing teleradiology equipment at the correctional center to handle the emergency interpretation requirements, CardioMetrix filed this protest.

CardioMetrix argues that Southwest's bid should have been rejected as nonresponsive because Southwest did not indicate a local place of performance in its bid. Thus, according to CardioMetrix, Southwest's bid created an ambiguity about whether it would comply with the time frames for providing emergency services set forth in the statement of work. The Bureau of Prisons responds that any question about where Southwest will perform the interpretation services is a question of bidder responsibility, not responsiveness.

To be responsive, a bid must represent an unequivocal offer to provide the exact thing called for in the IFB such that acceptance of the bid will bind the contractor in accordance with the solicitation's material terms and conditions. Only where a bidder provides information with its bid that reduces, limits, or modifies a solicitation requirement may the bid be rejected as nonresponsive. Oscar Vision Sys., Inc., B-232289, Nov. 7, 1988, 88-2 CPD ¶ 450. Responsibility, on the other hand, refers to a bidder's apparent ability and capacity to perform all contract requirements and is determined not at bid opening but at any time prior to award based on any information received by the agency up to that time. See Montgomery Elevator Co., B-220655, Jan. 28, 1986, 86-1 CPD ¶ 98. Information concerning a bidder's responsibility generally may be provided or changed any time prior to award. See Norfolk Dredging Co., B-229572.2, Jan. 22, 1988, 88-1 CPD ¶ 62.

While CardioMetrix admits that a bidder's place of performance generally involves a matter of responsibility, not responsiveness, see Adrian Supply Co., B-239681, Aug. 28, 1990, 90-2 CPD ¶ 170, recon. denied, B-239681.2, Jan. 29, 1991, 91-1 CPD ¶ 79; John Short & Assoc., Inc.; Comprehensive Health Servs., Inc., B-236266; B-236266.4, Nov. 9, 1989, 89-2 CPD ¶ 448, recon. denied, Comprehensive Health Servs., Inc. -- Recon., B-236266.5, Apr. 10, 1990, 90-1 CPD ¶ 376, it argues that our Office should conclude that the statement of work here indicates that the procuring agency has a material need for performance in the Miami area. Specifically, CardioMetrix contends that since the Bureau of Prisons required emergency interpretation services within 8 hours, the agency should have concluded that a bidder from Arizona, like Southwest, who did not indicate a source for performance of these services in the Miami area, was nonresponsive for implicitly taking exception to the solicitation's emergency services requirements.

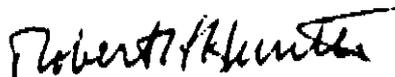
We disagree. The solicitation's requirement for emergency x-ray interpretation services within 8 hours is a restriction regarding the time period during which the required services must be performed, not a geographic restriction. Southwest included nothing within its bid that took issue with the solicitation's emergency requirements, and thus, promised to meet those requirements as written. In addition, since Southwest plans to use teleradiology equipment to transmit x-ray images to Arizona, the agency concluded that Southwest would be able to meet the emergency interpretation requirements.

The prior decisions of our Office cited in CardioMetrix's comments on the agency report are inapplicable here. For example, CardioMetrix cites our decision in Silent Partner, Inc., B-224426.2, Nov. 7, 1986, 86-2 CPD ¶ 535, for the proposition that bids offering performance outside a certain

CardioMetrix also argues that Southwest's intended method of performing the emergency services--i.e., using teleradiology equipment to electronically transmit x-ray images from Miami to Arizona--violates the solicitation's requirement that the contractor provide a courier to retrieve x-ray film within 2 hours of a request for emergency services. Since Southwest's bid took no exception to this requirement, there is no basis to question the responsiveness of the bid. Whether Southwest complies with the requirement for these services is a matter of contract administration that we will not review. 4 C.F.R. § 21.3(m)(1) (1994). In this regard, we note that Southwest has, in fact, agreed that it will provide the emergency courier services and will, presumably, transmit the x-rays from another location if the agency so desires.

geographic area should be rejected as nonresponsive. The solicitation in Silent Partner limited participation to bidders located in labor surplus areas. Thus, bidders were required to include with their bids information about their location, and those who failed to do so--or those who were located outside a labor surplus area--were rejected. Here, as stated above, the solicitation required services within a certain time period but there was no limitation on the location of the contractor. Since the information included in a place of performance clause is generally used for information purposes only, see Comprehensive Health Servs., Inc.--Recon., supra, and since emerging technology permits Southwest to meet the solicitation's time limitations while located away from Miami, we find nothing unreasonable about the agency's decision to award to Southwest.

The protest is denied.



for Robert P. Murphy
Acting General Counsel