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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Goldbelt Glacier Health Services, LLC

File: B-410378; B-410378.2

Date: September 25, 2014

Robert K. Tompkins, Esq., Megan M. Jeschke, Esq., Elizabeth M. Gill, Esq., and Elizabeth N. Jochum, Esq., Holland & Knight, LLP, for the protester. Antonio R. Franco, Esq., Kathryn V. Flood, Esq., Peter B. Ford, Esq., and Julia D. DiVito, Esq., PilieroMazza PLLC, for National Sourcing, Inc., the intervenor. Kyle E. Chadwick, Esq., and Scott N. Flesch, Esq., Department of the Army, for the agency. Edward Goldstein, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where maximum value of task order issued by agency is less than \$10 million, GAO does not have jurisdiction to entertain protest challenging issuance of task order notwithstanding the fact that the protester proposed a price in excess of \$10 million.

DECISION

Goldbelt Glacier Health Services, LLC, of Alexandria, Virginia, protests the issuance of a task order for psychological health services in support of the Army National Guard to National Sourcing, Inc. (NSI), of Tampa, Florida, pursuant to task order request No. 0002-05.¹ Goldbelt challenges the agency's evaluation of the proposals submitted in response to the task order request as well as the agency's selection decision.

We dismiss the protest because it is not within our jurisdiction.

Our Office is authorized to hear protests of task orders that are issued under multiple-award contracts (or protests of the solicitations for those task orders) where

¹ The order was issued against a multiple-award indefinite-delivery/indefinite-quantity (IDIQ) contract awarded by the National Guard Bureau.

the task order is valued in excess of \$10 million, or where the protester asserts that the task order increases the scope, period, or maximum value of the contract under which the order is issued. California Indus. Facilities Res., Inc., d/b/a/ CAMSS Shelters, B-406146, Feb. 22, 2012, 2012 CPD ¶ 75 at 2. Our Office has held that the value of a task order may include the total anticipated funds to be recovered by the successful offeror. See Serco Inc., B-406061, B-406061.2, Feb. 1, 2012, 2012 CPD ¶ 61 at 7.

Here, the task order issued to NSI under its IDIQ contract has a maximum value below the \$10 million floor necessary to invoke our bid protest jurisdiction. In this regard, the record reflects that the task order is comprised of four contract line item numbers (CLINs)--three fixed-price CLINs (one of which is for optional transition-out work) and a single cost-type CLIN for travel costs up to a maximum of \$500,000.² The agency issued the order to NSI on September 5 in the amount of \$9,620,556.42 (including the optional transition work and assuming the maximum \$500,000 for travel costs).

Glacier argues that the \$10 million jurisdictional threshold is met here because, but for the agency's flawed evaluation, it would have received an order under its IDIQ contract in an amount greater than \$10 million. Throughout its protest, and in its submission addressing the jurisdictional question at issue, Glacier focuses on what it believes to be the true value of the work to be performed under the task order. Glacier contends that the work cannot be performed for an amount less than \$10 million, where it, as the incumbent, proposed a price of \$11,431,544. The protester maintains that we should invoke our jurisdiction since, as properly issued to Glacier, the order would have a value in excess of \$10 million.

The Federal Acquisition Streamlining Act, as amended by the National Defense Authorization Act of Fiscal year 2012, specifically provides, in relevant part, that a protest is not authorized in connection with the issuance of a task or delivery order except for "a protest of an order valued in excess of \$10,000,000." 10 U.S.C. § 2304c(e)(1) (2006). Notwithstanding Glacier's arguments to the contrary, where an order has in fact been issued by the government, we view the jurisdictional limit to turn on the value of the disputed order, which is reflected in the terms of the order itself since the order defines the scope and terms of the contractual commitment between the selected contractor and the government. Accordingly, we do not

² CLIN 0001 is fixed-price CLIN for a transition-in period from September 6, 2014 through September 19, 2014. CLIN 0002 is a fixed-price CLIN covering the ordered psychological services, with a period of performance from September 20, 2014 through September 5, 2015. CLIN 0003 is a cost-type CLIN for travel costs up to a maximum of \$500,000. The fourth CLIN, numbered 0007, is a fixed-price CLIN for an optional transition-out period from September 6, 2015 through September 19, 2015. NSI's Task Order at 2-3, 29-31, 54-55.

consider the alleged underlying value of the work apart from the terms of the disputed order, or the value of a theoretical order issued to a different contractor, as advocated by Glacier. Our view in this regard is consistent with the other decisions of this Office where we have considered the value of an order issued by the government. In each case, the focus of our inquiry has been on the total anticipated funds (or other economic value) to be received as compensation for the goods and services to be provided under the order as reflected in the contractual agreement between the government and contractor, not the value of the work separate and apart from the terms of the underlying contractual agreement, or the value of a different order issued to a different firm. See, e.g., Serco Inc., supra, (total evaluated price, to include option, appropriate measure of task order value because it reflects the amount that the contractor may be compensated in performing the task order); ESCO Marine, Inc., B-401438, Sept. 4, 2009, 2009 CPD ¶ 234 at 4-6 (holding value of task order for jurisdictional purposes to be the anticipated funds to be recovered by the contractor); U.S. Bank, B-404169.3, Feb. 15, 2011, 2011 CPD ¶ 43 at 3-4 (vendor's total anticipated fee is value for determining jurisdiction).

In this case, there is no reasonable dispute that the challenged order, as issued by the government, has a maximum value less than \$10 million. Accordingly, our Office does not have jurisdiction to consider the protest.

The protest is dismissed.

Susan A. Poling
General Counsel