



**Comptroller General
of the United States**

Washington, D.C. 20548

91-CPO 144

Decision

PR

Matter of: National Medical Staffing, Inc.
File: B-242506
Date: February 8, 1991

Dr. Gloria M. Bertacchi for the protester.
 Bruce J. Roberson, D.D.S., for Contract Dental Services, Inc.,
 Guy L. Riley, D.D.S., for Riley Dental Services, Inc., and
 Ann S. Cozens, for Unicon, Inc., interested parties.
 Herbert F. Kelley, Jr., Esq., Department of the Army, for the
 agency.
 John Formica, Esq., and John W. Van Schaik, Esq., Office of
 the General Counsel, GAO, participated in the preparation of
 the decision.

DIGEST

1. Protester's assertion that it should have received award because it offered a lower price than the awardee is dismissed where the solicitation provided that technical quality would be considered more important than price.
2. Protest that the agency failed to notify unsuccessful offerors on a small business set-aside of the name and location of apparent successful offeror is dismissed, because the notice was not required since the contracting officer determined in writing that the award was required to be made without delay.

DECISION

National Medical Staffing, Inc. protests the award of a contract to Riley Dental Services, Inc. under request for proposals (RFP) No. DADA10-90-R-0039, a small business set-aside, issued by the Army Health Services Command for dental services.

We summarily dismiss the protest because based on the information provided by the agency in its report, it is clear that the protest does not state a valid basis. Bid Protest Regulations, 4 C.F.R. § 21.3(m) (1990).

The solicitation, which was issued on August 15, 1990, included 10 line items for dental services at 10 Army dental

clinics. The RFP provided for award on an item by item basis and stated that award would be made to the firm whose offer was determined to be most advantageous to the government considering both technical quality and price and that technical quality would be more important than price. Eleven proposals, including one from National Medical Staffing, were submitted. After the evaluation of proposals, discussions, and the submission of best and final offers, the agency found that Riley's proposal was the most advantageous to the government for line items 1 through 4, 6, 8 and 9, considering both technical quality and price, and awarded a contract to Riley for those line items on December 21.

National Medical Staffing protests the award of line items 2, 4, 6, 8 and 9 to Riley. The protester argues that it should have been selected for award because it submitted the lowest priced technically acceptable offer for these line items.

The protester's assertion that it should have received the award solely because it offered a lower price than Riley fails to state a valid basis for protest because the solicitation provided that award would be based on technical quality as well as price, and specifically stated that technical quality was more important than price. In a negotiated procurement, unless the RFP so specifies, there is no requirement that award be based on lowest price. Stewart-Warner Elecs. Corp.; B-235774.7, Dec. 27, 1989, 89-2 CPD ¶ 598.

The protester also complains that it did not receive notice prior to award asking if it questioned Riley's size status. When a procurement is set-aside for small business, before award the contracting officer generally must notify each unsuccessful offeror in writing of the name and location of the apparent successful offeror in order to permit preaward challenges of the awardee's small business status. Federal Acquisition Regulation § 15.1001(b)(2). However, where the contracting officer determines in writing that the urgency of the requirement necessitates award without delay, the notice is not required. Id. Here, the contracting officer made the required written determination on December 19, prior to the award to Riley. Thus, the protester's complaint that it did not receive a preaward notice fails to establish that the agency violated any procurement law or regulation.

The protest is dismissed.

John Brosnan

John Brosnan
Assistant General Counsel