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**Comptroller General
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**United States Government Accountability Office
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Decision

Matter of: Integrated Science Solutions, Inc.

File: B-406025

Date: January 17, 2012

Patricia A. Meagher, Esq., Suhani Kamdar, Esq., and Lauren B. Kramer, Esq.,
Rogers Joseph O'Donnell, for the protester.

Victoria H. Kauffman, Esq., and J. Brett Swanson, Esq., National Aeronautics and
Space Administration, for the agency.

Mary G. Curcio, Esq., and David A. Ashen, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Agency decision to cancel award to protester and reevaluate proposals is unobjectionable where, in response to agency level protest, agency discovered unequal treatment in evaluation which appeared to benefit protester in the evaluation.

DECISION

Integrated Science Solutions, Inc. (ISSi), of Walnut Creek, California, protests the National Aeronautics and Space Administration's (NASA) decision to cancel the order awarded to ISSi, and reevaluate the quotations that were received in response to request for quotations (RFQ) No. NND10348201R, for environmental consulting services.

We deny the protest.

The RFQ was issued to five vendors that hold a General Services Administration (GSA), Federal Supply Service (FSS) schedule contract for Environmental Services, Consulting. The RFQ provided for the order to be issued on a best value basis, based on the following evaluation factors: technical capability (with subfactors for staffing plan, management plan, and safety and health plan); past performance; and price. As relevant to this protest, the solicitation further provided that the staffing plan would be evaluated against six elements: appropriateness and rationale for the proposed skill mix; identification of key personnel; ability and methodology to hire and retain qualified staff; corporate staffing standards; rationale for hiring or replacing incumbent personnel; and methods for addressing absences and surge

requirements. RFQ, Att. A. Vendors were required to include their GSA FSS contracts with their offers.

Following the evaluation of offers, ISSi's quotation was selected as offering the best value to the government, and ISSi was awarded the order. Subsequently, another offeror protested to NASA that ISSi's GSA contract required all of its proposed personnel to have a college degree and a certain number of years experience. According to that protester, as a result of this requirement, ISSi would be unable to retain a substantial majority of the incumbent staff. The contracting officer reviewed the protest and agreed that the evaluation of ISSi's quotation should have considered the likelihood ISSi would be unable to hire incumbent staff. In this regard, the contracting officer further found that another offeror had been assigned two significant weaknesses related to the possibility that it would have trouble hiring incumbent staff. COS at 7. The contracting officer therefore decided to cancel the award to ISSi, reevaluate quotations, and make a new award determination. ISSi protests the agency's corrective action.

Contracting officials in negotiated procurements have broad discretion to take corrective action where the agency determines that such action is necessary to ensure fair and impartial competition. Major Contracting Servs., Inc., B-400737.3, Dec. 17, 2008, 2008 CPD ¶ 230 at 2. In this regard, it is not necessary for an agency to conclude that the protest is certain to be sustained before it may take corrective action; rather, where the agency has reasonable concern that there were errors in the procurement, we view it as within the agency's discretion to take corrective action even if the protest could be denied. Main Bldg. Maintenance, Inc., B-279191.2, Aug. 5, 1998, 98-2 CPD ¶ 47 at 3.

Here, the agency explains that it was necessary to cancel the award because it could not determine from ISSi's quotation whether the degree requirements in its GSA schedule contract would impede its ability to hire incumbent staff. The agency further reports that in reviewing the agency level protest it became aware that it had treated vendors unequally, because while the agency had not considered how the degree requirements would affect ISSi's ability to hire incumbent staff, another offeror, with similar degree requirements in its GSA schedule contract, was assessed two significant weaknesses related to the possibility that it would have trouble hiring incumbent staff. COS at 7.

ISSi argues that the failure to capture incumbent staff was not an evaluation factor and thus should not have been the basis for evaluation or for canceling the award. However, while it may be true that the ability to capture incumbent staff was not a stated evaluation factor, it is clear from the record that the agency in fact took into account this consideration when evaluating some of the quotes. Again, **[DELETED]**, Source Selection Statement (SSS) at 4-5, while another offeror was assigned two significant weaknesses related to its apparent inability to retain incumbent staff. SSS at 8. Further, one of the significant weaknesses assigned to that other offeror

was specifically based on the hiring limitations resulting from the degree requirements in the offeror's schedule contract, an issue that the agency did not even consider in evaluating ISSi's quotation. Under these circumstances, we find that the agency made a reasonable decision to cancel the award and reevaluate quotations. In this regard, it is a fundamental principle of federal procurement that competition be conducted on an equal basis and that offerors are treated equally in the evaluation process. SWR, Inc., B-284075, B-284075.2, Feb. 16, 2000, 2000 CPD ¶ 43 at 3.

The protest is denied.

Lynn H. Gibson
General Counsel