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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Medfinity, LLC

File: B-412068

Date: December 2, 2015

Peter Pham, for the protester.

David G. Fagan, Esq., Department of Veterans Affairs, for the agency.

Laura Eyester, Esq., Cherie J. Owen, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that sole source award was improper is denied where the procurement was conducted under simplified acquisition procedures and the record shows that the contracting officer reasonably determined that only one source was reasonably available.

DECISION

Medfinity, LLC (Medfinity), of Fountain Valley, California, a small business, protests the Department of Veterans Affairs' (VA) sole source award of a contract to PROAIM Americas, LLC (PROAIM), of Grover, Missouri, a small business, for a Zeiss Humphrey visual field analyzer for the VA Medical Center in Spokane, Washington. Medfinity argues that the sole source award to PROAIM was improper because there are other visual field analyzers that the VA could have purchased to meet its needs.

We deny the protest.

BACKGROUND

On August 17, 2015, the VA posted its justification on the FedBizOpps website for a sole source award (in the amount of \$28,170) to PROAIM for a Zeiss Humphrey Field Analyzer 3, Model 860, to replace existing broken equipment at the VA Medical Center in Spokane, Washington. Agency Report (AR), Tab 6, FedBizOpps Synopsis of Award, Aug. 17, 2015. A visual field analyzer determines a patient's complete "visual field," which includes peripheral vision. AR at 1. The VA's Spokane facility tests patients using a visual field analyzer prior to the patient's visit

with an optometrist. Contracting Officer Statement (COS) at 1. During the examination, the optometrist compares the patient's current results with the baseline and data from any other prior visual field tests. Id.

The notice indicated that the award was made as a simplified acquisition under Federal Acquisition Regulation (FAR) § 13.106-1 on the basis of unusual and compelling urgency, FAR § 6.302-2, explaining that the VA facility was unable to provide optical service until its visual field analyzer was replaced. AR, Tab 6, Synopsis of Award. The notice further indicated that only PROAIM could provide the required supplies, explaining that the Zeiss Humphrey Field Analyzer 3, Model 860, is a "sole source item" distributed by PROAIM.¹ Id. Finally, the notice stated that there were "substantial savings" available from trading in used equipment. Id.

On August 18, Medfinity filed an agency-level protest challenging the sole source award. AR, Tab 7, Email Correspondence, at 3. After the VA denied its agency-level protest, AR, Tab 8, Agency-Level Protest Denial, Medfinity filed this protest with our Office.

DISCUSSION

Medfinity argues that the agency's decision not to consider it for award of the contract for the visual field analyzer was unreasonable because, according to the protester, it can provide a visual field analyzer that is equal to, or better than, the one purchased by the VA. Protest at 1.

When conducting a procurement utilizing simplified acquisition procedures, contracting officers must promote competition to the maximum extent practicable to obtain supplies and services from the source whose offer is the most advantageous to the government. 41 U.S.C. § 3305(d); FAR § 13.104; SageCare, Inc., B-411260, June 23, 2015, 2015 CPD ¶ 190 at 3. As an exception to this general competition requirement, a contracting officer may solicit from one source if the contracting officer determines that the circumstances of the contract action indicate that only one source was reasonably available, such as under urgent circumstances. FAR § 13.106-1(b)(1)(i). Specifically, the FAR provides with regard to acquisitions valued below the simplified acquisition threshold that:

Contracting officers may solicit from one source if the contracting officer determines that the circumstances of the contract action deem only one source reasonably available (e.g., urgency, exclusive licensing agreements, brand-name or industrial mobilization).

¹ The VA has informed our Office that PROAIM is a distributor of this product for purposes of VA acquisitions. AR, Tab 3, Market Research, at 6.

FAR § 13.106-1(b)(1)(i). We review protests of the agency's decision to limit competition under such circumstances for reasonableness. Aerosage LLC, B-410648.2, B-410648.3, Mar. 20, 2015, 2015 CPD ¶ 111 at 5; Critical Process Filtration, Inc., B-400746 et al., Jan. 22, 2009, 2009 CPD ¶ 25 at 3.

In response to the protest, the VA explains that replacing the visual field analyzer with the same brand previously used ensures "patient data transfer from the old field perimeter to the new field perimeter" and enables the VA to generate useful clinical data. COS at 1. Specifically, the optometrist uses current and prior data from the visual field analyzer to determine if a patient's medical condition, such as glaucoma, is under control as a result of the medical treatment. Id. Thus, according to the agency, accurate data transfer and consistency between the baseline reading and later readings are essential in monitoring trends for eye pathology. VA Response to Request for Information at 1; COS at 1. Although the VA stated that it was unsure whether data could be transferred to a visual field analyzer from a different manufacturer, the agency believed that purchasing a different brand of visual field analyzer would result in a risk that necessary data would be lost or converted incorrectly. VA Response to Request for Information at 1-2. While additional research might have addressed these concerns, the agency noted that its need for a replacement machine was urgent, and that each day without a visual field analyzer impacted 12 patients. AR at 2-3; AR, Tab 7, Email Correspondence, at 4. The VA further explains that Zeiss is the only manufacturer of visual field analyzers that has been approved and tested by the VA for digital imaging and communications in medicine (DICOM) interface to VistA² imaging. COS at 1; see VistA Imaging Approved DICOM Modality Interfaces, Nov. 3, 2015 at 34, available at: <http://www.va.gov/HEALTH/imaging> (last visited December 2, 2015).

Based on this record, we find the agency's decision to solicit from a single source to be reasonable. In this regard, the record reflects that the VA limited competition to only one source because it had an urgent need to quickly obtain a visual field analyzer to replace the broken one at the VA Medical Center in Spokane so that patients could receive necessary optometry tests. In addition, Medfinity has not disputed the agency's conclusion that replacing the broken visual field analyzer with a model from the same manufacturer would ensure reliable data transfer, important for monitoring trends for eye pathology, and that the proposed visual field analyzer was the only one that has passed the VA's testing for DICOM interface.

² VistA is the hospital information system the VA developed for clinical staff use in every phase of the healthcare delivery process. See VistA Imaging System DICOM Conformance Statement, Aug. 2011 at iii, available at: <http://www.va.gov/HEALTH/imaging> (last visited December 2, 2015).

While the protester argues that it can provide an equivalent product that also would allow for data transfer, Medfinitly has furnished no basis to challenge the VA's assertion that it had an urgent and compelling need for the visual field analyzer, which precluded the research necessary to ensure that accurate data transfer and consistency between the baseline reading and later readings could be achieved when transferring data from the VA's Zeiss visual field analyzer to machines from other manufacturers. In addition, the protester has not provided any information demonstrating that the model it would have provided has been tested by the VA and passed for DICOM interface to VistA imaging or that its product would have been available within the urgent timeframe needed. In these circumstances, we find that the agency reasonably concluded it had an urgent need for a visual field analyzer that could only be met by contracting with PROAIM.

The protest is denied.

Susan A. Poling
General Counsel