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Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Datastream Systems, Inc.

File: B-291653

Date: January 24, 2003

Thomas W. Epting, Esq., and Jack H. Tedards, Jr., Esq., Leatherwood Walker Todd & Mann, for the protester.
Dorn C. McGrath, III, Esq., Scott Arnold, Esq., and Karen L. Tinsky, Esq., Greenberg Traurig, for MRO Software, Inc., an intervenor.
Lydia Kupersmith, Esq., General Services Administration, for the agency.
Tania Calhoun, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that contracting agency improperly relaxed solicitation's technical requirement that a computerized maintenance management system be web-based by accepting for award a system that requires the use of a software "plug-in" program (which was not included in the awardee's proposal) in order to be fully web-based is denied where the protester has not established competitive prejudice as a result of the waiver.

DECISION

Datastream Systems, Inc. protests the award of a contract to MRO Software, Inc. under request for quotations (RFQ) No. WPI-20021, issued by the General Services Administration (GSA) to procure a computerized maintenance management system (CMMS) to manage buildings in the Washington, D.C. area. Datastream argues that MRO's proposal failed to meet the solicitation's technical requirements, and that GSA relaxed those requirements solely for MRO.

We deny the protest.

GSA's National Capital Region (NCR) issued this solicitation on July 23, 2002 to procure, on a pilot basis, a CMMS to manage its more than 680 buildings in the Washington, D.C. area. The NCR's government-owned and -managed assets--fewer than 200 of these buildings--are the primary target for an enterprise CMMS for the

region.[1] The agency anticipates that such a system will help it manage its building assets in a consistent and effective manner. RFQ Statement of Work (SOW) at 3.

The RFQ advised vendors that GSA was primarily concerned with fulfilling its needs for customer service calls or work orders, preventive maintenance, inspections of work performed and of cleaning contractors, and minor repair tracking. Id. at 2. The system was required to be a mature product that would let GSA accomplish these tasks while providing any supporting capability needed to support these functions, such as inventory management, systems administration, and warranty tracking. Id. The system was also required to be "tailorable" to end-users, such as customers, show managers and technicians, call center personnel, managers of multiple buildings, service center managers, and headquarters program managers and upper management. In addition, an administrative function was to be handled by a program or functional lead and by information technology support personnel. Id. NCR envisioned rolling the product out to a subset of its buildings--a pilot population--in order to test its full capability and to receive an assessment of the project. If, after the pilot phase, GSA decided to proceed to the second phase of the project, it planned to negotiate a contract modification with the contractor. Id. at 3.

The selected product was to meet various environmental requirements listed in the solicitation. Among other things, the product should be "web-architected"; the application had to be "compatible with all current GSA standard systems software"; and the product had to use an "Oracle back-end database (GSA Standard)." Id. at 1. Vendors were required to submit technical proposals addressing how they could meet the project's objectives; to demonstrate satisfactory performance of their web-architected products through multiple installations within the public and private sector; and to submit at least five references. Id. at 3. Once GSA established that a vendor's proposal complied with the SOW's criteria, each proposal was to be evaluated based on the following criteria, "with the first being more important than the next": technical merit of the product, technical merit of the proposal, cost, and time to implement. July 29, 2002 RFQ Questions and Answers (Q&A) No. 10. Award was to be made on a "best value" basis. July 31, 2002 Q&A at 1.

The July 29 Q&A included the following exchange:

> Q: Please confirm that the term "web-architected" is to be interpreted as the ability for a user to access the CMMS system from a web browser such as Internet Explorer V5.5 or above. If so, this definition is commonly referred to as "web-enabled" rather [than] "web-architected." The term "web-architected" is generally defined as an

[1] The remaining inventory includes government-owned but tenant-managed buildings and leased buildings that may or may not be managed by GSA. GSA envisions basic tracking within the whole inventory of buildings, but active engagement in at least the GSA-owned and -operated buildings.

> application that requires zero footprint on the [user's] desktop computer and requires no middleware such as PL/SQL or similar plug-ins on the client.
>
> A: GSA defines web-architected to allow the download of a plug-in and [require] an Internet Explorer browser front-end.

July 29, 2002 Q&A No. 7.

A "plug-in" is an auxiliary software program that works with a major software package to enhance its capability. TechEncyclopedia, <http://www.techweb.com/encyclopedia/defineterm?term=plug-in>. The agency explains that the term is typically used when a component of software is downloaded, or otherwise required, to make a connection between a user's desktop computer and the server hosting the application's website. Initial Agency Report at 4. Based upon the above exchange defining the RFQ's requirement that the product be "web-architected," a product that required the use of a software program to access an application would be an acceptable solution. In response to a vendor's question whether GSA intended to purchase software for this project, the contracting officer replied, "Software part of technical proposal." July 31, 2002 Q&A at 1.

MRO and Datastream submitted quotations in response to the solicitation, and GSA evaluated both as meeting all critical go/no go factors. Datastream's quotation, which offered a product called "Datastream 7i" at a price of $406,981, was assigned a point score of 82 and evaluated as satisfactory under all criteria. GSA noted concerns in two areas where there appeared to be a conflict with the SOW. MRO's quotation, which offered a product called "Maximo 5" at a price of $257,595, was assigned a point score of 84 and evaluated as satisfactory under all criteria. GSA noted one area that might be a problem with further implementation of the product. Based upon the point scores, the references contacted by the agency, and the vendors' relative prices, GSA determined that MRO's proposal represented the best value to the government.

Award was made to MRO on September 16. Datastream subsequently filed a post-debriefing agency-level protest in which it alleged that MRO's proposal failed to meet the RFQ's technical requirements. Referencing the RFQ's requirement that the solution be "web-architected," or "web-based," and citing language from the Maximo 5 system administrator's guide, Datastream argued that MRO's proposal offered a system whose systems administration applications were not web-based but, instead, were client/server-based. Agency-Level Protest at 7. Datastream stated that if it had been allowed to propose a solution that was not web-based, its costs would likely have been less than half the price of the web-based solution it proposed.

The contracting officer denied Datastream's protest on October 25. Her rejection of Datastream's argument that MRO's proposed system was not fully web-based was

supported, in part, by language from MRO's proposal indicating that its product was web-based. For example, in addition to stating that its product offered "a 100% web-native solution that requires no software (plug-in, PL/SQL, etc.) on the [user's] desktop computer," MRO Proposal at 4, MRO's system requirements listed a web browser as the only client workstation software requirement. Id. at 18. The contracting officer stated that the systems administration applications could be accessed by two methods: either from a desktop using a Windows interface (which would be a client/server-based method) or from a web-browser through the use of a plug-in enabler, "ICA Client" (which would be a web-based method). The contracting officer stated that the systems administration applications requiring the plug-in were ancillary to the product's core user functions that were the subject of the procurement, and that those core user functions did not require the use of plug-ins.

On November 4, Datastream filed the instant protest in this Office, arguing that MRO's proposal failed to meet the RFQ's requirement to be web-architected. Citing the contracting officer's statement that the MRO product's systems administration applications can be accessed using either a client/server-based method or a web browser through the use of a plug-in enabler such as ICA Client (the web-based method), Datastream argues that MRO's proposal did not include the plug-in software GSA would need to access its systems administration applications using the web-based method.[2] Datastream argued that, instead, MRO's proposal required GSA to provide the software plug-in at government expense. Datastream asserted that, since vendors were not made aware of GSA's willingness to use software plug-ins at the government's expense, vendors whose quotations included such costs were not competing on an equal basis with MRO, and GSA improperly failed to consider the costs the government would incur to provide the plug-in in evaluating MRO's proposal. Datastream states that ICA client is not a free download, but a software product that requires GSA to have a Citrix server and appropriate licenses for use of the Citrix product, which involves significant costs.

In reviewing an agency's technical evaluation of vendor submissions under an RFQ, we will not reevaluate the quotations; we will only consider whether the agency's evaluation was reasonable and in accord with the evaluation criteria listed in the

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[2] Datastream was first put on notice of GSA's view that the systems administration applications could be accessed using a web-based method, with a plug-in, when it received the contracting officer's October 25 denial of its agency-level protest. As a result, its November 4 protest to this Office raising the issues associated with the plug-in was timely filed. 4 C.F.R. § 21.2(a)(2) (2002) (protests other than those based upon alleged solicitation improprieties must be filed within 10 days after the basis of the protest is known or should have been known).

solicitation and all applicable procurement statutes and regulations. Applied Mgmt. Solutions, Inc., B-291191, Nov. 15, 2002, 2002 CPD ¶ 202 at 2; Envirodyne Sys. Inc., B-279551, B-279551.2, June 29, 1998, 98-1 CPD ¶ 174 at 4. Our review of the record here shows that GSA did relax the solicitation's requirements for MRO but that Datastream was not prejudiced by the agency's actions.

It is undisputed that the RFQ required vendors to propose a solution that was web-based, and that this requirement could be met if the solution relied upon software plug-ins. It is also undisputed that MRO's proposal stated that its product offered "a 100% web-native solution that requires no software (plug-in, PL/SQL, etc.) on the [user's] desktop computer," MRO Proposal at 4, and listed a web browser as the only client workstation software requirement. Id. at 18. GSA concedes, however, that Maximo 5's systems administration applications do require a plug-in, ICA Client. Initial Agency Report at 9; GSA Response to Questions at 1. MRO's proposal does not include the provision of this software plug-in or its associated costs.

The RFQ, as amended by a Q&A, put vendors on notice that software was to be "part of [the] technical proposal." July 31 Q&A, supra. While GSA argues that this instruction was "intended to address the software associated with the database end-user," GSA Response to GAO Questions at 2, there is no such limitation set forth in the RFQ.[3] As a result, we read the RFQ's requirement that software was to be "part of the technical proposal" to extend to software plug-ins required to make an offered product a web-based solution.

GSA argues that it did not think it necessary to address plug-in software since it already has such software, including ICA Client, as part of its standard systems infrastructure. GSA and the intervenor point to the RFQ's requirement that the system be "compatible with all current GSA standard systems software" as somehow putting vendors on notice that the agency already possessed software plug-ins, including ICA Client, that need not be provided as part of a vendor's quotation. We do not find this argument persuasive. The cited requirement is clearly designed to prevent vendors from proposing solutions that would not work with GSA's existing systems, and in no way puts vendors on notice of any software plug-ins GSA might possess that they might use in crafting their quotations. Contrary to the apparent

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[3] GSA states that these systems administration applications are separate and apart from the CMMS system which was the primary subject of the procurement, and which does not require the use of plug-ins. The GSA argues that these applications are not for the regular end-users, and that only a GSA network administrator might elect to use them. Initial Agency Report at 9. Ancillary though the systems administration applications might be, the RFQ specifically required the system to be a mature product that would let GSA accomplish its primary tasks while providing any supporting capability, including "systems administration." SOW at 2.

view of the intervenor, a vendor is not required to search through GSA's Internet site in an effort to determine which software programs are currently part of the agency's standard systems.

The record shows that GSA, in fact, evaluated the quotations of both Datastream and MRO as relying on plug-in software that was available as part of GSA's standard information technology infrastructure, and did not consider either firm's failure to explicitly include plug-in software as part of their proposals to be deficiencies. There is, however, a distinction between the two quotations and their use of plug-ins. The RFQ required the offered system to use an "Oracle back-end database." SOW at 1. On notice that GSA currently used Oracle as part of its standard systems infrastructure, Datastream proposed the use of a free and automatic plug-in provided by Oracle for use with its product. See Datastream Proposal at 6, 31; Protester's Supplemental Comments at 2-3. In contrast, MRO's product requires a plug-in whose current use by GSA is not apparent from the solicitation, was not part of MRO's proposal, and which is not a free download. As a result, strictly speaking, GSA relaxed the requirement to propose a web-based solution for MRO.

However, our Office will sustain a protest that an agency improperly relaxed its requirements for the awardee only where the protester establishes a reasonable possibility that it was prejudiced by the agency's actions; that is, had it known of the changed or relaxed requirements, it would have altered its proposal to its competitive advantage. HHI Corp., B-266041, B-266041.2, Jan. 25, 1996, 96-1 CPD ¶ 21 at 3. Here, there is no evidence in the record that Datastream would have altered its proposal to its competitive advantage even if GSA had clearly advised vendors that they could use plug-ins that were part of the agency's standard system in order to offer a web-based solution.[4] To the extent that Datastream even argues that it could have submitted a less costly solution had it been permitted to offer a product that used government-provided software plug-ins, it has failed to identify what such an alternate and less costly solution would have been that could have overcome the 58 percent price differential here. Establishing prejudice generally requires more than a mere statement by the protester that it could have lowered its price had it known of the relaxed requirements, particularly where, as here, the protester presumably has access to more specific information bearing on the issue of prejudice. Id. at 4; Computer Prods., Inc., B-271920, Aug. 9, 1996, 97-1 CPD ¶ 97 at 6.

Datastream argues that GSA should have considered the cost to the government of providing the ICA Client plug-in in order to make a meaningful comparison between the quotations. The protester asserts that the use of GSA resources by MRO's system depletes the server capacity, uses up available licenses, and requires GSA to

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[4] While Datastream argues that it could have submitted a proposal that was not web-based for a price less than the web-based price, the agency was clearly seeking a web-based solution.

maintain the availability of ICA Client to serve MRO's system even if it otherwise might discontinue its use.

In response, GSA explains that the plug-in software programs required by both vendors' products are part of the agency's standard systems infrastructure and generally available for use in connection with all agency information technology applications. As a result, GSA states, any costs related to their purchase and installation have been absorbed as part of the agency's overall costs for operating and maintaining its information technology systems. The agency explains that the cost associated with the ICA Client or any similar plug-in is either nonexistent or minimal to the point that it would be difficult, or impossible, to assign a cost. GSA's standard system software provides for concurrent usage of ICA Client software so that GSA does not have to obtain a dedicated license each time it uses the ICA plug-in, and GSA states that it has never approached a limit on its capacity in this regard. Moreover, GSA notes, the use of a plug-in when operating Maximo 5 would arise only in rare circumstances, since it is only required in connection with use of the ancillary system administrative functions that are not used by the end-users but, instead, by network administrators. GSA Response to GAO Questions at 5-6. The agency states that Datastream's proposal was approximately $150,000 more than MRO's proposal, far above any differential that could be attributable to plug-in software. As a result, even if it had considered the minimal costs of MRO's plug-in in evaluating quotations, MRO would have retained its significant competitive advantage.

Datastream's assertion that GSA is "missing the point" in arguing that the costs associated with the ICA Client plug-in is minimal itself misses the point. Competitive prejudice is a prerequisite to sustaining a protest. Where the record does not demonstrate that, but for the agency's actions, the protester would have had a reasonable chance of receiving the award, our Office will not sustain a protest, even if a deficiency in the procurement is found. McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; see Statistica, Inc. v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996). Here, the agency's explanation that the results of the competition would have been the same even if it had considered the costs of providing the plug-in associated with MRO's product is not substantively challenged by the protester, and we have no basis to question its validity.

The protest is denied.

Anthony H. Gamboa
General Counsel