



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

DOCUMENT FOR PUBLIC RELEASE

A protected decision was issued on the date below and was subject to a GAO Protective Order. This version has been redacted or approved by the parties involved for public release.

Matter of: Rockville Mailing Service, Inc.

File: B-275073; B-275073.2

Date: January 23, 1997

Jeffrey A. Lovitky, Esq., for the protester.

Louis J. Kozlakowski, Jr., Esq., Blum, Yumkas, Mailman, Gutman & Denick, P.A., an intervenor.

Lyman Goon, Esq., Social Security Administration, for the agency.

Linda C. Glass, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging acceptability of awardee's proposal on the basis that awardee cannot fulfill solicitation requirement to obtain discounts for 5-digit zip code presorted mail is denied where the solicitation does not require 5-digit sorting of mail.

DECISION

Rockville Mailing Service, Inc. (RMS) protests the award of a contract to Jetsort Inc. under request for proposals (RFP) No. SSA-RFP-95-2255, issued by the Social Security Administration (SSA), for mail sorting services. RMS challenges the technical acceptability of Jetsort's proposal.

We deny the protest.

The RFP sought proposals for all services necessary to prepare first-class metered mail to qualify for rate discounts under the United States Postal Service (USPS) barcoded and presorted first-class discount programs. First-class mail that is presorted may qualify for discount rates when specified minimum volumes are met. In this regard, the RFP contemplates that the contractor will commingle the SSA's mail with its own sorted first-class mail to qualify for better volume rate discounts. Under the contract, the contractor will pick up SSA's first-class mail from the agency's Woodlawn, Maryland facility on a daily basis, sort the SSA's mail, add it to the contractor's other sorted first-class mail, and then deposit it at the post office for delivery. In order to permit SSA to evaluate the estimated volume of first-class mail that each offeror could commingle with SSA's first-class mail during sorting to

qualify for rate discounts, the RFP required offerors to include the average daily volume of their current National Distribution Mail (NDM) in their technical proposals.

The RFP provided that award would be made on a best value basis, with technical factors more important than price. The solicitation contained the following technical evaluation factors and points (with a possible total of 100 points): (1) understanding of the requirements of the statement of work (SOW) (10 points); (2) offeror's technical approach (20 points); (3) experience of offeror's proposed technical staff (15 points); (4) experience of offeror's proposed management staff (15 points); (5) offeror's experience in barcoding and presort operations to include volumes of mail handled, amount of experience and qualification rates achieved in the barcoding/presorting of national distribution mail (25 points); and (6) facilities and equipment (15 points).

The agency received five proposals in response to the initial solicitation and four best and final offers (BAFO), including those submitted by RMS and Jetsort. The source selection official (SSO) determined that the technical proposals of Jetsort, RMS and another offeror were technically equivalent and recommended award to RMS based on its low price. Award was made to RMS on September 29, 1995.

During an on-site inspection of RMS' facilities after award, the agency noted that RMS' volume of first-class mail appeared to be below the level represented in its proposal. The agency concluded that RMS might have misinterpreted the requirement, that the RFP might have been ambiguous, and that reopening discussions and reevaluating proposals was necessary. RMS protested SSA's decision to reopen negotiations; we denied the protest. Rockville Mailing Serv., Inc., B-270161.2, Apr. 10, 1996, 96-1 CPD ¶ 184.

Thereafter, on April 24, 1996, amendment No. 6 was issued advising the four original offerors who submitted BAFOs that negotiations were reopened. All four offerors submitted revised proposals by the May 28 closing date. The revised proposals were scored as follows:

OFFEROR	TECHNICAL SCORE	PRICE
Jetsort, Inc.	[deleted]	\$ [deleted]
OFFEROR A	[deleted]	\$ [deleted]
RMS	[deleted]	\$ [deleted]
OFFEROR B	[deleted]	\$ [deleted]

Negotiations were conducted and on July 22 offerors submitted their BAFOs, which received the following ratings:

OFFEROR	TECHNICAL SCORE	PRICE
Jetsort, Inc.	100	\$ 684,954.00
OFFEROR A	[deleted]	\$ [deleted]
RMS	94	\$1,427,012.65

Based on its high technical score and low price, award was made to Jetsort on September 20. This protest followed.

RMS essentially argues that Jetsort's proposal should have been rejected for failure to comply with what RMS considers a mandatory requirement to provide 5-digit zip code sorting and was improperly evaluated as though Jetsort could qualify for the 5-digit rate.

In a negotiated procurement, any proposal that fails to conform to material terms and conditions of the solicitation should be considered unacceptable and may not form the basis for an award. National Medical Staffing, Inc.; PRS Consultants, Inc., 69 Comp. Gen. 500 (1990), 90-1 CPD ¶ 530. Where an evaluation is challenged, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the evaluation criteria and applicable statutes and regulations since the relative merit of competing proposals is primarily a matter of administrative discretion. Information Sys. & Networks Corp., 69 Comp. Gen. 284 (1990), 90-1 CPD ¶ 203. We have reviewed Jetsort's proposal and the agency's evaluation and find that SSA reasonably evaluated Jetsort's proposal.

With respect to the 5-digit zip code sorting the RFP provided the following:

"Mail qualification at the automation 5-digit rate is not an SSA requirement. However, the contractor will be paid a fee for any pieces qualifying for the automation 5-digit discount, because the pieces

qualified beyond the automation 3-digit level The additional discount that the contractor receives from USPS for SSA mail that qualifies at the automation 5-digit rate is expected to be returned to SSA."

From this language, it is clear, contrary to the protester's allegation, that the RFP does not require that offerors provide SSA with the 5-digit zip code sorting of mail and the related discount. The only requirement is that the agency receive the benefit of the 5-digit rate if it is available to the contractor. Consequently, there is simply no basis for rejection of Jetsort's proposal for failure to provide a 5-digit rate.

With respect to the allegation that Jetsort's proposal received inappropriate evaluation credit, the RFP provided that offeror's experience in barcoding and presort operations would be evaluated to include "average daily qualification percentages achieved at the 3-digit barcoded discount rate (and 5-digit barcoded discount rate if applicable)." RMS maintains that Jetsort received inappropriate evaluation credit because it agreed to return the additional .016 discount for any mail qualifying for the 5-digit zip code discount. RMS takes the position that Jetsort is unable to claim such a discount under applicable postal service regulations.

RMS has misinterpreted the record in this regard. While Jetsort included information in its technical proposal regarding its prior experience in 5-digit zip code sorting, as explained above, the RFP did not require 5-digit zip code sorting and it is clear from the record that Jetsort's proposal was evaluated solely on its experience in 3-digit sorting operations. If Jetsort were to qualify mail at the 5-digit rate, only then would there be an RFP requirement to pass on a refund to SSA. Jetsort's agreement to return the additional .016 discount for any mail qualifying at the 5-digit zip code qualification rate simply reflects its assent to the RFP requirement pertaining to a situation where an offeror has the ability to receive the discount from USPS, and does not reflect any claim of qualifying for the discount. Appropriately in its evaluation of Jetsort's proposal, the agency gave no credit for providing 5-digit zip code sorting.

In a supplemental protest, RMS alleges that Jetsort's proposal should have also been rejected because Jetsort stated that mail with insufficient postage would be returned to SSA. RMS maintains that the RFP requires the contractor to pay the USPS, at the time of mailing, any postage in excess of the 3-digit rate affixed to SSA mail.

The agency maintains that the protester has simply misconstrued the requirement of the solicitation in arguing that the RFP requires treating mail with insufficient postage in the same fashion as sorted mail on which residual postage is due. According to the agency, the requirement to which RMS refers applies to residual postage, not mail with insufficient postage. Residual postage refers to the situation where some mail does not qualify for the 3-digit sorting discount, but instead qualifies for intermediate higher postal rate programs or at full rate, and additional postage will be due on this mail when the contractor delivers the sorted mail to the post office. The RFP assigns the contractor the daily responsibility for initially paying the residual postage to the USPS with subsequent reimbursement by SSA. Insufficient postage refers to metered mail which, through inadvertence or error during the metering process, is somehow incorrectly metered or which has no postage meter marking at all. The agency takes the position that Jetsort's statement that it would return mail with insufficient postage to the agency is completely consistent with the RFP requirement. We agree.

With respect to residual mail, the RFP specifically provides the following:

"The additional postage required on SSA mail that does not qualify for the rate at which SSA has metered it, will be paid to USPS by the contractor at the time of mailing and billed to SSA for reimbursement The contractor shall be reimbursed for the additional postage for SSA mail that the contractor paid to USPS at the time of mailing. This postage will be the difference between the rates metered on the mail and rates at which the mail was accepted by USPS The only mail to be returned to SSA is listed in Part 1, Section C-1E (15)."

Under pertinent parts of Section C-1E(15) the RFP states:

"Return to the SSA mailroom in the NCC any unmailable or unsorted pieces, such as, but not limited to, misdated mail, pieces with insufficient presort rate postage."

In our view, the agency reasonably concluded that Jetsort's statement refers to the RFP requirement concerning mail with insufficient postage, the returning of which to the agency is compliant with the solicitation requirements.¹

The protest is denied.

Comptroller General
of the United States

¹RMS raised several allegations in its supplemental protest which it did not address in its comments to the agency supplemental report, including that Jetsort's proposal should be rejected because it failed to indicate acceptance of the wage rate determination contained in the solicitation and that Jetsort's pricing was impermissibly unbalanced. The agency responded to these issues in its supplemental agency report; since RMS, in its comments filed on the supplement report, did not rebut the agency's position on these matters, we view these issues as abandoned. See Datum Timing, Div. of Datum, Inc., B-254493, Dec. 17, 1993, 93-2 CPD ¶ 328.