



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Malone Construction Company

File: B-280021

Date: August 18, 1998

Rob Malone for the protester.

Maj. Scott D. Schuler and Capt. Jean M. Aylward, National Guard Bureau, for the agency.

Wm. David Hasfurther, Esq., John Van Schaik, Esq. and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that consolidation of construction work on three projects into one procurement unduly restricts competition from small businesses is denied where record shows that, due to limited storage space and restricted access to the project sites, the agency reasonably concluded that its needs require that all three projects be performed by one contractor.

DECISION

Malone Construction Company, a small business, protests the consolidation of three construction projects at Scott Air Force Base, Illinois, into one procurement under invitation for bids (IFB) No. DAHA11-98-B-0003, issued by the National Guard Bureau/U.S. Property & Fiscal Office for Illinois. Malone contends that the IFB is unduly restrictive because consolidating the three projects into one procurement excludes small business participation.

We deny the protest.

The IFB includes separate plans and specifications for three projects: (1) alteration of an aircraft maintenance hangar, (2) construction of general purpose aircraft maintenance and engine inspection and repair shops, and (3) construction of a fuel cell/corrosion control hangar. Award is to be based on total prices for the three projects.

The work under the IFB is required for the relocation of the 126th Air Refueling Wing from the O'Hare Air Reserve Station in Chicago to Scott Air Force Base. Memorandum of law at 2. This relocation effort was mandated by the 1995 Base Relocation and Closure Commission legislation, which required that the Scott Air Force Base facility be operational by July 1999. *Id.* In order to close the facility at O'Hare and meet the relocation requirements of the 126th Air Refueling Wing, the

agency reports that 17 construction projects, including the three encompassed by the IFB, will have to be performed over a short period of time and on a limited site at Scott Air Force Base. Id.

The agency contends that its consolidation of the three projects into one procurement was proper. In addition to arguing that it will save money by using one contract instead of three, the agency maintains that consolidation of the work is necessary as a result of conditions at the work sites. In this respect, the agency reports that there is only limited storage space available for the construction projects. Although some storage will be permitted in a hangar, most of the available storage space is adjacent to the site of the fuel cell/corrosion control hangar and can only be reached by workers on all three projects by passing through that site. Id. at 5. Extensive utility and road work also will periodically restrict access to the project areas. Id. The agency determined that only by limiting the construction to one contractor--rather than three--will it be possible to efficiently use this limited space in a manner that ensures timely, accident-free contract performance. The agency also notes that the sites for these three projects are within 50 feet of each other and that other projects will occupy the space surrounding the three projects with the exception of the limited storage space adjacent to the fuel cell/corrosion control hangar site. Id. at 4-5; Agency's July 20 response at 3. Thus, the construction work is being done in a relatively confined area where access, storage and traffic problems are of concern. The agency decided that its needs require that one contractor perform all three projects.

In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit offers in a manner designed to achieve full and open competition; restrictive provisions and conditions may be used only to the extent necessary to satisfy the needs of the agency. 10 U.S.C. § 2305(a)(1)(A)(i), (B) (1994); Advanced Elevator Servs., Inc., B-272340, B-272340.2, Sept. 26, 1996, 96-2 CPD ¶ 125 at 3. Since bundled, consolidated or total-package procurements combine separate, multiple requirements into one contract and have the potential for restricting competition by excluding firms that can furnish only a portion of the requirement, a bundled requirement will be upheld only where it is shown to be necessary to meet the agency's needs. Advanced Elevator Servs., Inc., supra.

We believe the agency has reasonably justified consolidating the three projects based on the special conditions present at the site. It is clear that limited storage space exists for these construction projects. While Malone argues that additional storage space is available north and south of the maintenance hangar, the agency reports that these areas will be used in the performance of other projects. Memorandum of law at 4-5; Agency's July 20 response at 5. The record supports the agency's assertion that the only access to the storage space adjacent to the fuel cell/corrosion control hangar site is through that site, which will be undergoing construction. It is also not disputed that due to extensive utility and road work, access to the construction projects will be periodically restricted. Memorandum of

law at 5. The record also shows that due to the overall schedule for relocating the 126th Air Refueling Wing, the work on each of the three projects is required to be performed largely, although not completely, simultaneously. We think that given the limited storage area, the access difficulties, and the schedule constraints, the agency reasonably concluded that having only one contractor do all three projects is required to meet the agency's needs.¹ Accordingly, we conclude that the bundling of the projects in one solicitation is permissible here.

The protest is denied.

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¹Malone argues that, as a result of the total value of the three projects under the IFB, it is unlikely that a small business could compete effectively for the contract. While it may be that small businesses will decline to compete due to the size of this project, there is no legal requirement that a contracting agency limit a particular contract to a certain dollar value in order to make it more attractive to small businesses. In this regard, just as an agency is not required to cast its procurement in a manner that neutralizes the competitive advantages some firms may have over the protester by virtue of their own particular circumstances, an agency likewise is not required to craft a solicitation so as to ensure the protester's retention in the competition to the detriment of the government's actual requirements. Border Maintenance Serv., Inc., B-260954, B-260954.2, June 21, 1995, 95-1 CPD ¶ 287 at 4.