



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Construction Environment, Inc.

File: B-229616

Date: March 8, 1988

DIGEST

Purchase order awarded pursuant to request for quotations issued under small purchase procedures was properly awarded to firm submitting second low quotation where agency determined that protester's apparently low quotation did not include cost of performing certain required tasks.

DECISION

Construction Environment, Inc. (CEI), protests the award of a purchase order to EBA Engineering, Inc., by the General Services Administration (GSA) pursuant to request for quotations (RFQ) No. GS-11P88MKC7204. This RFQ was issued pursuant to small purchase procedures and sought quotations to provide soil inspection and testing services at the United States Secret Service Testing Facility, Beltsville, Maryland. We dismiss the protest in part and deny it in part.

Initially, quotations for this procurement were sought orally via telephone by the GSA Project Officer. However, at the request of CEI, a formal RFQ with a written statement of work was issued on October 29, 1987. The work statement listed four separate tasks including the requirement to perform specifically identified laboratory tests on soil samples. The day after issuance of the RFQ, GSA provided each participant with the estimated level of effort associated with each task. Concerning the requirement to perform laboratory tests, GSA estimated that a total of 70 tests would be required.

The closing date for submission of quotations was November 3. On or before that date, GSA obtained quotations from four companies including CEI and EBA. Quotations for each task were submitted based on GSA's estimated levels of effort. Total quotations for each firm were determined by adding together the quotations submitted for each of the individual tasks.

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The aggregate quotation submitted by CEI was \$21,360--\$430 less than EBA's quotation of \$21,790. However, CEI specifically stated that its quotation for the task of performing laboratory tests did not include the cost of obtaining the soil samples to be tested. CEI further stated that additional charges at the rate of \$30 per hour would be made for obtaining samples and provided that there would be a 4 hour minimum charge for such activities. In contrast, EBA indicated that its quotation for the task of conducting laboratory tests included the cost of obtaining the soil samples to be tested.

In evaluating the quotations, GSA considered the differing terms of the quotations submitted along with the fact that 70 soil sample tests were anticipated. Based on its evaluation, GSA concluded that EBA's aggregate quotation was more advantageous to the government. Accordingly, a purchase order was issued to EBA on November 4.

CEI protests that the work statement was ambiguous; that it should have received the purchase order due to its lower aggregate quotation; and that the GSA Project Officer was biased against its firm.

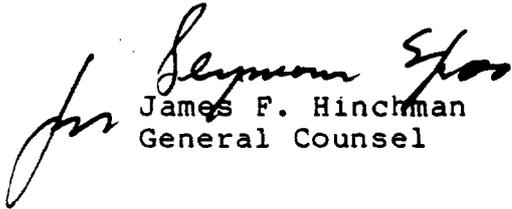
CEI's protest that the specifications contained in the work statement were ambiguous is untimely. Our Bid Protest Regulations require that protests based on alleged improprieties in a solicitation which are apparent prior to the closing date must be filed prior to that date. 4 C.F.R. § 21.2(a)(1) (1987). We have specifically applied this rule to RFQs issued under small purchase procedures. Sheila J. Baldwin, B-223717, Aug. 7, 1986, 86-2 CPD ¶ 168. Since CEI was aware of the alleged ambiguity prior to the closing date, but failed to protest the matter until after award to EBA, its protest challenging the terms of the RFQ is dismissed.

CEI's protest that it should have received the purchase order on the basis of its low aggregate quotation is also without merit. The RFQ was issued pursuant to small purchase procedures contained in Part 13 of the Federal Acquisition Regulation (FAR). These procedures set forth abbreviated competitive requirements designed to minimize administrative costs that otherwise might equal or exceed the cost of relatively inexpensive items. For example, under small purchase procedures, competition is generally deemed sufficient where the contracting officer orally solicits quotations from three or more sources. FAR § 13.106(b) (FAC 84-5).

Procuring agencies bear the initial responsibility for evaluating the data supplied in response to a solicitation. Hausmann Industries, Inc., B-226719, June 19, 1987, 87-1, CPD ¶ 614. Our Office will review an agency's evaluation of data to determine whether that evaluation was reasonable. Id. Here, our review of the record supports GSA's determination that EBA's quotation was more advantageous to the government based on EBA's willingness to obtain the soil samples as part of the laboratory tests in contrast to CEI's statement that such activities would be performed at an additional cost over and above the price it quoted for performing laboratory tests. Accordingly, CEI's protest challenging GSA's determination that award to EBA was most advantageous to the government is denied.

To the extent CEI alleges that GSA's decision was based on bad faith and/or personal animosity on the part of the Project Officer, we find no basis for its protest. In submitting its comments on the agency report, CEI refers to past disagreements between itself and the GSA official. In light of our determination that GSA's award of the purchase order was reasonably based on the terms of the quotations submitted, and in the absence of any documentary evidence of impropriety by the GSA official, we decline to address the personal charges made by CEI.

The protest is dismissed in part and denied in part.


James F. Hinchman
General Counsel