

S. Riback



Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

**Matter of:** Ace Van and Storage Company  
**File:** B-238281  
**Date:** May 1, 1990

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Dennis B. Nordstrom, Esq., Latham & Watkins, for the protester.  
Gregory Hamilton, for Windward Moving and Storage Co., Inc., an interested party.  
Eloisa Regalado, Esq., Department of the Navy, for the agency.  
Scott H. Riback, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Protest that agency failed to evaluate offers consistently with solicitation's evaluation scheme is denied where protester's interpretation of applicable solicitation language is unreasonable.

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## DECISION

Ace Van and Storage Company protests the award of several contracts under request for proposals (RFP) No. N00604-89-R-0131, issued by the Department of the Navy for services involving the packing, moving, and storage of household goods for military personnel stationed on the island of Oahu, Hawaii. Ace argues that the Navy improperly evaluated proposals submitted under the RFP and thereby failed to make award to the lowest priced offeror.

We deny the protest.

The RFP contemplated the award of one or more requirements contracts to the low, technically acceptable offerors and called for the submission of fixed-unit-price offers on one or more of three schedules. Schedule I was for the performance of various services in connection with the outbound movement of household goods from Oahu; Schedule II was for the performance of various services in connection with the inbound movement of household goods to Oahu; and Schedule III was for the performance of various services in

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connection with the movement of household goods between various points within the island.

The RFP provided estimated annual quantities for each line item expressed in terms of "net hundredweight" (NCWT) units, and offerors were required to provide unit prices as well as extended prices for each line item within the schedule or schedules for which they wished to be considered. In addition, the RFP listed the government's estimated maximum and minimum daily requirements for each schedule. Offerors were required to offer at least on the basis of minimum daily guaranteed quantities for each schedule and were permitted to guarantee daily quantities up to the government's estimated maximum daily quantity. For example, offerors under Schedule I were required to guarantee a minimum daily quantity of 350 NCWT and could offer to guarantee a maximum daily quantity of 900 NCWT.

The RFP also contemplated the possible award of additional contracts (secondary and tertiary) to enable the Navy to have available sufficient capacity on a daily basis to meet its requirements. For example, under Schedule I, if the successful primary offeror had only guaranteed a daily capacity of 350 NCWT, the RFP contemplated award of secondary and possibly tertiary contracts for additional capacity up to the Navy's stated maximum daily capacity of 900 NCWT, with daily requirements met through delivery orders placed first with the primary contractor up to 350 NCWT and then with the secondary and tertiary contractors as necessary.

The RFP also permitted offerors to place various conditions on their offers. In particular, firms were permitted to condition their offers on the basis of contractor status (primary, secondary or tertiary) and were also permitted to make "all-or-none" offers across schedules. The solicitation also provided that firms would be evaluated on the basis of the total aggregate price of all items within an area of performance under a given schedule and required offerors to submit prices for all items within a specified area of performance under each schedule. In addition, the agency reserved the right to consider in its evaluation of

offers the advantages and disadvantages to the government of making multiple awards. Finally, for purposes of making awards, the RFP provided that:

"Award shall be made to the qualified low offeror by area under each of the specified schedules to the extent of his stated guaranteed daily capability as provided herein and the clause entitled 'Estimated Quantities.' The Government reserves the right to make an award of two or more areas to a single offeror if such award will result in an overall lower estimated cost to the Government. The Government also reserves the right to award additional contracts, as a result of this solicitation, to the extent necessary to meet its estimated maximum daily requirements."

In response to the RFP, the Navy received seven initial offers, including that of the protester. Ace made acceptance of its offer conditional upon being only the primary contractor and further stipulated that it would only accept, on an "all-or-none" basis, award on Schedules I and III in combination. In addition, Ace guaranteed a daily quantity under Schedule I of 900 NCWT (the government-estimated maximum daily quantity) but guaranteed a daily quantity under Schedule III of only 250 NCWT.1/

After evaluation of the offers submitted, the Navy made award of the primary contract under Schedule I to Westpac Moving and Storage, Inc. and the secondary contract under Schedule I to Gunn Van Lines. With respect to Schedule III, the Navy made award of a primary contract to Windward Moving and Storage Company, Inc., a secondary contract to Gunn, and a tertiary contract to Worldwide Moving and Storage, Inc. In making those awards, the Navy calculated that these combinations of contractors offered the lowest overall cost to the government, even though the aggregate total of Ace's prices as primary contractor under Schedules I and III was lower than the aggregate total of any other combination of primary contractors for those schedules.2/ In this regard,

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1/ The government's estimated maximum daily quantity under Schedule III was 1,500 NCWT.

2/ Ace's offer under Schedule I was not the lowest offer submitted. However, when aggregated with its Schedule III offer, it was lowest priced combination for the primary contracts under the two schedules. According to the agency, there was an alternate primary proposal from Windward for  
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the Navy, in determining that award to Ace would not be most advantageous, had taken into consideration the additional cost of using secondary and tertiary contractors under Schedule III since Ace had not guaranteed a sufficient daily quantity under Schedule III to ensure that even the Navy's average daily requirements would be met by the primary contractor. This protest followed.

Ace argues that the Navy unreasonably interpreted the RFP's evaluation scheme in arriving at its award decisions. In particular, Ace argues that under the RFP, the Navy was required to make award to it as the low aggregate offeror under Schedules I and III combined, without taking into consideration the additional costs of secondary and tertiary contractors under Schedule III to fulfill the Navy's remaining requirements. In support of its position, Ace directs our attention to the RFP's award clause which states that "[a]ward shall be made to the qualified low offeror by area under each of the specified schedules to the extent of his guaranteed daily capability." Ace also directs our attention to the RFP's "Evaluation of Offers" clause which states that "[o]ffers will be evaluated on the basis of total aggregate price of all items within an area of performance under a given schedule." According to Ace, the RFP provisions quoted above required the Navy to make award to it as the firm offering the lowest aggregate price for Schedules I and III in combination, regardless of the cost of secondary and tertiary contracts needed to satisfy the agency's total requirements under each schedule.

The Navy responds that it properly gave consideration to the cost of using secondary and tertiary contractors under Schedule III in determining which combination of offers would result in the lowest overall cost to the government. In this regard, the Navy points out that the RFP provides for the award of a contract covering two or more areas to a single offeror only if such an award would result "in an overall lower estimated cost to the Government." The Navy therefore argues that it properly gave consideration to the cost of using secondary and tertiary contractors under Schedule III since it required sufficient average daily

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Schedule III which, in combination with Westpac's Schedule I offer, would have been lower than Ace's all-or-none offer. However, the Windward proposal was conditioned on also receiving a secondary contract at a much higher price, and the agency has not explained how such an award would have been feasible or economical given the conditional nature of the alternate proposal.

capacity to meet its stated requirements and since Ace's Schedule III offer only guaranteed a maximum annual quantity of 62,000 NCWT with a daily capacity of 250 NCWT. The Navy notes that the RFP contained an estimated annual quantity of 126,000 NCWT for Schedule III with average daily requirements of 510 NCWT.

An agency is required to follow the evaluation scheme set forth in the RFP. See Quality Sys., Inc., B-235344, B-235344.2, Aug. 31, 1989, 89-2 CPD ¶ 197. Where there is a dispute between the protester and the agency as to the meaning of a particular solicitation provision (here, the evaluation scheme), our Office will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all its provisions. See Ebasco Constructors, Inc., B-231967, Nov. 16, 1988, 88-2 CPD ¶ 480.

The RFP did state that award would be made to the low offeror under each of the schedules "to the extent of his stated daily capability." However, the RFP also specified that the agency could award two or more areas<sup>3/</sup> to a single offeror if such awards would result in the lowest overall estimated cost to the government. Pursuant to that requirement of the RFP, the Navy was necessarily required to determine whether acceptance of Ace's offer resulted in the lowest overall estimated cost to the government since acceptance of Ace's all-or-none offer required the Navy to make award to the firm under more than one schedule.

When submitting its offer, Ace knew that the government intended to award the total estimated quantity specified in the RFP. Ace also knew that it submitted an offer for Schedule III for less than the agency's average daily requirements and that the agency would have to award one or more additional contracts at prices in excess of Ace's offer to satisfy the remaining requirements. Where, as here, the only criterion for contract award is cost, the government must award on the basis of the award or combination of awards that represents the lowest overall cost to the government. See Ford Aerospace and Communications Corp. et al., B-224421.2 et al., Nov. 18, 1986, 86-2 CPD ¶ 582. Accordingly, we think Ace's interpretation, requiring evaluation of its offer in a vacuum without consideration of

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<sup>3/</sup> Ace also argues that the word "area" as used in this clause refers to geographically discrete areas within a single schedule. We think, however, that since the RFP contemplated performance within only a single geographical area, this reference in the RFP was intended by the agency to distinguish among the solicitation's various schedules.

the cost of additional contracts that had to be awarded to meet the quantity shortfall in Ace's offer, is unreasonable. Indeed, we think the evaluation provision referred to by ACE, specifying that evaluation would be on the basis of "total aggregate price," as well as the provision permitting the award of two or more areas (schedules) to one offeror, clearly allowed the Navy to consider the costs of secondary and tertiary contracts in determining the combination of awards that would result in the lowest overall estimated cost to the government.

We deny the protest.

*for Robert P. Murphy*  
James F. Hinchman  
General Counsel