

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-215692

DATE: October 24, 1984

MATTER OF: Consolidated Food Management Co.

DIGEST:

1. Complaint that grantee failed to award a food management services contract to the firm offering the lowest management fee has no merit where the solicitation requested information regarding other cost factors and provided for the evaluation of such factors and possible negotiation, and thus did not contemplate that award would be based on management fee alone.
2. Complaint that grantee's procurement of food management services should have based award on low proposed management fee instead of on the criteria identified in the solicitation is untimely where filed after the time set for receipt of proposals.

Consolidated Food Management Co. (CFM) complains that Monroe School District No. 103, Monroe, Washington failed to award it a contract to provide food management services for the district. The school district receives funds for its lunch program from the Department of Agriculture under the National School Lunch Act, as amended, 42 U.S.C. §§ 1751-1769(c) (1982). CFM contends that the solicitation provided that award would be based on the lowest offered management fee, and points out that it proposed the lowest such fee. CFM complains that the school district evaluated a host of other factors in deciding to award another offeror the contract.

We deny the complaint in part and dismiss it in part.

The solicitation clearly did not contemplate award based on the lowest offered management fee. In addition to requiring offers of a management fee, the solicitation required offerors to estimate their personnel and materials costs, and also provided for consideration of the school district's total food costs and income from

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the food services if any particular offeror was the contractor. It was clear that the district intended to evaluate this information. The solicitation also required each offeror to submit for the district's evaluation information concerning its experience, training, and management. Furthermore, offerors were advised that the district reserved the right to negotiate in order to obtain the most advantageous proposal. These provisions simply precluded reasonably interpreting the solicitation as establishing that the lowest offered management fee would be the sole selection criterion. In this respect, the record establishes that the district's selection followed a complete evaluation, based on the format under which proposals were invited, of all aspects of the offers received. The record thus provides no basis to question the reasonableness of the district's decision.

To the extent that CFM means to argue that the procurement should have been structured so that the vendor proposing the lowest management fee won, the complaint is untimely. This contention involves an alleged deficiency apparent on the face of the solicitation, as explained above, and therefore had to be filed before the time set for the receipt of proposals. ADB-Alnaco, Inc., B-212666, May 22, 1984, 84-1 CPD ¶ 537. The reason for this filing requirement is to insure that we receive complaints at a time when we can decide the issue while corrective action is most practicable, if warranted. Caravelle Industries, Inc., 60 Comp. Gen. 414 (1981), 81-1 CPD ¶ 317; Reliance Steel Products Company, B-206754, Jan. 24, 1983, 83-1 CPD ¶ 77. Since CFM's complaint was filed after the time for receiving proposals, we will not consider whether the proposed management fee should have been the sole, or primary, award criterion.

The complaint is denied in part and dismissed in part.


Acting Comptroller General
of the United States