



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Borders Consulting, Inc.

File: B-281606

Date: March 10, 1999

James Thompson, Esq., Dauer & Thompson, for the protester.
Sherry K. Kaswell, Esq., Department of the Interior, for the agency.
Scott H. Riback, Esq., and John M. Melody, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest that evaluation criteria are designed to "steer" award to particular firm is denied where criteria directly relate to statement of work.

DECISION

Borders Consulting, Inc. protests the terms of request for quotations (RFQ) No. 99-SQ-20-10047, issued by the Department of the Interior (DOI) for evaluation and upgrade of the agency's Mid-Pacific Internet web sites. Borders principally argues that the solicitation's evaluation criteria are improper and that certain of the agency's technical evaluators should be excluded from participation in the acquisition.

We deny the protest.

The RFQ contemplates the award of an indefinite-quantity contract to evaluate the agency's mid-Pacific Internet web sites and to implement and maintain a more effective and efficient Internet presence. This RFQ is the second solicitation issued by the agency for this requirement; Borders protested the award under an earlier solicitation (B-281308, dismissed as academic, Nov. 9, 1998), and the agency issued this RFQ as part of its corrective action in response to that protest.

Borders takes specific issue with two criteria--experience and knowledge of secure electronic commerce development, and experience and knowledge of web-based security--asserting that they do not reflect the statement of work. Borders also asserts more generally that the evaluation criteria were designed to favor the prior awardee, that is, to enable the agency to ratify its earlier source selection decision.

Agencies enjoy broad discretion in selecting evaluation criteria and we will not object to a solicitation's evaluation scheme so long as it reasonably relates to the agency's needs. Madison Servs., Inc., B-278962, Apr. 17, 1998, 98-1 CPD ¶ 113 at 3.

The fact that a solicitation's technical requirements or evaluation criteria may favor one offeror over another is unobjectionable, so long as they reflect the agency's actual needs, and the advantage enjoyed by a particular firm is not the result of improper government action. Id.

Borders's assertions relating to the two specific evaluation criteria are without merit. The first criterion specifies that proposals will be assessed to determine a firm's experience in and knowledge of developing secure electronic commerce. RFQ, Evaluation of Technical Proposal and Price Quotation, at 2. This criterion clearly relates to the statement of work, which provides that one of DOI's objectives is to:

[a]llow employees and customers to conduct various on-line business activities through Internet/Intranet interfacing of programs such as time and attendance, services and supplies, requisitions, training registration, contracting and bidding opportunities, as well as computer modeling and operation and maintenance activities.

RFQ, Statement of Work, at 1. Since experience and knowledge in the area of developing electronic commerce capabilities will be relevant to an offeror's ability to accomplish this aspect of the requirement, there is nothing unreasonable in the agency's adoption of a criterion to assess proposals in this area.

The statement of work also encompasses requirements that relate specifically to the evaluation criterion relating to experience and knowledge in web-based security. The RFQ states that another of the agency's objectives is to "[p]rovide the Region with a secured, cohesive, and integrated approach to developing shared information in a highly-vulnerable and rapidly changing technology-based environment." Id. Additionally, the RFQ requires that all work performed under the contract be in accordance with the requirements of Office of Management and Budget (OMB) Circular A-130, which contains detailed procedures and requirements relating to maintaining security for all federal automated information resources. OMB Circular A-130, Appendix III. In light of these requirements and the central purpose of the RFQ--evaluating and upgrading the agency's Internet/Intranet system--the evaluation criterion for this area clearly relates to the agency's needs, and thus is proper.¹

¹In a related assertion, Borders maintains that the RFQ improperly fails to disclose how technical scores will be assigned. This assertion is without merit; agencies are required to disclose the evaluation criteria and their relative importance, but need not state in the solicitation the rating method to be employed in evaluating proposals. Federal Acquisition Regulation § 15.304(d). The RFQ states the relative weights of the evaluation factors, as required.

Borders's more general objection that the evaluation criteria are designed to favor the awardee under the earlier solicitation also is without merit. Borders does not assert, except as discussed above, that the evaluation scheme fails to reflect the agency's actual requirements, and we have found that the criteria Borders does challenge are unobjectionable. Consequently, even if the current RFQ favors the awardee under the prior RFQ, this fact is immaterial, since the current RFQ embodies the agency's actual requirements. Madison Servs., Inc., supra.

Borders asserts that the agency improperly has permitted evaluators who participated in the prior source selection to develop the evaluation criteria for the current solicitation, and will permit these same individuals to evaluate the quotations submitted under this RFQ. The protester maintains that the participation of these individuals will taint the award process because they are biased in favor of the prior awardee.

This argument is without merit because the premise on which it is based is incorrect. As discussed above, the RFQ's evaluation criteria, on their face, are related to DOI's requirements, and thus are unobjectionable. Borders has submitted no evidence to support its bald assertion that the drafters of the criteria designed them to competitively harm the protester rather than simply to evaluate proposals against the agency's requirements. Thus, there is no basis to find that the solicitation drafters acted improperly and, accordingly, there is no basis to exclude them from the evaluation process. As for the possibility that the evaluators will act in a manner harmful to Borders in evaluating its proposal, Borders's protest is speculative and anticipates improper agency action that has not occurred. Its protest in this respect therefore is premature. VSE Corp.-Recon. and Entitlement to Costs, B-258204.3, B-258204.4, Dec. 28, 1994, 94-2 CPD ¶ 260 at 2.

Borders raises numerous other protest grounds that relate to the propriety of the agency's actions and the terms of the RFQ that involve primarily the procedural adequacy of the acquisition. We have reviewed all of Borders's assertions and find them to be without merit. For example, Borders asserts that the agency failed to synopsize the current RFQ in the Commerce Business Daily. However, since Borders is well aware of the solicitation and apparently intends to submit a quote, we fail to understand how this is harmful to Borders. Absent prejudice, there is no basis to sustain the protest. Geonex Corp., B-274390.2, June 13, 1997, 97-1 CPD ¶ 225 at 4-5.

The protest is denied.

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