



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: National Office Systems, Inc.

File: B-274785

Date: January 6, 1997

Dan Harbison for the protester.

David W. Craig for Spacesaver Systems, Inc., an intervenor.

Dennis J. Gallagher, Esq., Department of State, for the agency.

Paula A. Williams, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Under regulations governing Federal Supply Schedule (FSS) use, procuring agency met its responsibility to select the best value items at the lowest overall price after reviewing the General Services Administration's automated pricing and product information system and reasonably determining that the selected FSS contractor's product meets the agency's needs.

DECISION

National Office Systems, Inc. (NOS) protests the issuance of delivery order No. S-FBOAD-96-F-0246 to Spacesaver Systems, Inc. by the Department of State for high density filing systems to be installed at the State Department Annex. The delivery order was placed under Spacesaver's Federal Supply Schedule (FSS) contract No. GS-28F-1003C, for a total price of \$173,399.67. NOS, an authorized dealer for White Systems, Inc. (the schedule contractor), alleges that the agency failed to solicit a quotation from the firm, thereby depriving it of an opportunity to compete. NOS also alleges that the agency's best value determination was flawed as it was based on an inaccurate assessment of NOS's product line and past performance.

We deny the protest.

The procurement was initiated in July 1996 when a purchase request for the filing systems was placed with the agency's General Acquisition Division. The agency used the Spacesaver specifications to define its requirements and the contracting officer orally solicited price quotations from Spacesaver and NOS. Since NOS was the authorized dealer for the White product line, NOS indicated that it could only submit a price quote if the specifications were not specific to the Spacesaver brand

system.¹ Another purchase request was subsequently reissued using generic specifications for the filing systems on September 9, and the contracting officer reviewed the automated information available for several FSS contractors, including the catalogs and price lists for Spacesaver and White. In addition, because of the specific interest expressed by NOS in this purchase, the contracting officer asked the requirements office to review the White catalog to see if its filing system met the agency's needs and to prepare a cost estimate for the NOS/White system.

The agency estimated the cost for the filing systems offered by Spacesaver and NOS/White as essentially the same (\$18,000 to \$20,000 per system); however, based on a comparison of each system's major line items, the agency evaluators concluded that the Spacesaver filing system would best meet the agency's needs. For example, in comparing the Spacesaver rails to the White track, the agency evaluators noted:

"Spacesaver rails are structurally stronger in profile and are designed to interlock by means of a tongue and groove joint as opposed to a butt joint used in the White track. This butt joint is a nondesirable feature when considering stress factors with regard to mechanical wear and system integrity. In addition, the Spacesaver rails are levelled and anchored in a bed of continuous hydraulic grout which disperses the load evenly over the sub-structure. The White track is leveled with shims that in conjunction with the butt joints has inherent potential to misalign by deflection and fail in performance as well as create point loads on the sub-structure . . . the White tracks rely on side flanged wheels for carriage guidance which have a tendency to intensify the problem with maintaining track alignment whereas the Spacesaver center guide rail enhances alignment and minimizes carriage binding"

Similar comparisons were made with regard to elevated floor decking and ramp, carriage frame, and end panels offered by the two systems, with the Spacesaver design considered superior in overall strength and versatility due primarily to its better structural integrity and variety of available components.

Finally, the evaluators noted that the agency has both the Spacesaver and White systems installed at the State Department Annex, the location for installation under the protested delivery order. The agency reports that it has experienced "no problems with the Spacesaver installations and only incidental problems with the final product" whereas installations for the White systems "were plagued with

¹Spacesaver submitted a quotation dated July 11 which it later supplemented on July 23. NOS only submitted a product catalog to the agency on September 5.

problems ranging from delivery of the wrong product to unprofessional workmanship and the final product had several bugs that persistently reappear." After reviewing this product analysis and cost comparison, the contracting officer determined that the Spacesaver system would best meet its needs and issued a delivery order for six filing systems to Spacesaver on September 18.² This protest followed.

NOS challenges the agency's decision to place an order with Spacesaver, arguing that the agency failed to properly determine the lowest overall price available under the FSS. The protester contends that a valid price comparison could only be performed if the agency had received actual quotations from each schedule contractor, including NOS, rather than relying on the General Services Administration's (GSA) automated catalog/price information. Simply reviewing schedule prices, according to NOS, does not provide the agency with a basis for determining installation prices (these prices are not included in any FSS contractor's price list) or possible price reductions from published schedule prices.

When agency requirements are satisfied through the use of the FSS, an agency is not required to seek further competition, synopsise the requirement, make a separate determination of fair and reasonable pricing, or consider small business set-asides. Federal Acquisition Regulation (FAR) § 8.404(a) (FAC 90-41); Design Contempo, Inc., B-270483, Mar. 12, 1996, 96-1 CPD ¶ 146. When placing an order of more than \$2,500 under the FSS, however, a procuring agency is required to reasonably ensure that a selection represents the best value and meets the agency's needs at the lowest overall cost by considering reasonably available information about products offered under Multiple Award Schedule (MAS) contracts.³ FAR § 8.404(b),(c). This standard can be satisfied if the procuring agency reviews GSA's MAS automated information system. FAR § 8.404(b)(2)(i)(A).

We think the agency's actions in selecting a vendor to deliver the filing systems were unobjectionable under the FSS procedures. The agency states that since most of its requirements, including services such as installation, can be satisfied through the FSS, the contracting officer reviewed GSA's MAS automated information system for Miscellaneous Furniture, Federal Supply Classification Group 71, Part III, Section J, to obtain product information and prices. While the protester is correct that this automated information system does not include prices for services such as installation, the FSS schedule states that when buying filing cabinet systems, such

²The delivery order also includes non-FSS items, i.e., front-loading blueprint filing cabinets.

³The terms "Federal Supply Schedules" and "Multiple Award Schedules" are used interchangeably throughout Subpart 8.4 of the FAR.

as the one at issue here, the agency must "negotiate installation on a project-by-project basis, requesting an installation price quotation for each project regardless of dollar value of the project." This schedule language must be interpreted in a manner consistent with FAR § 8.404(b)(2)(i). As noted, that provision requires a procuring agency to review automated pricing and product information, if such is available; it does not require procuring agencies to seek further competition by soliciting quotations. Further, there is no requirement under the regulations governing FSS use that the agency solicit competitive quotes in order to obtain price reductions from schedule contractors. While schedule contractors are allowed to reduce their schedule contract prices to an individual agency for a specific order, there is no requirement that they do so. FAR § 8.404(b)(3). Since a formal solicitation process is not contemplated for ordering from an FSS--the purpose of the FSS program is to provide government agencies with "a simplified process" for obtaining commonly used supplies and services at prices associated with volume buying--we have no basis to conclude that the agency erred by not competing its FSS purchase simply to obtain possible price reductions.⁴ See National Mailing Sys., B-251932.3, Aug. 4, 1993, 93-2 CPD ¶ 78.

Finally, NOS maintains that even if the agency's actions were otherwise permissible, its best value determination was nonetheless flawed because the technical comparisons of the Spacesaver and White systems were incorrect and inaccurate. We have reviewed all of NOS's contentions in this respect and find them without merit. For example, NOS contends that the design and construction of Spacesaver's rails and wheels is less durable and reliable than White's as the center guide rail principle is "susceptible" to a single pivot line which can cause racking around that line, dirt can accumulate in the groove and cause frictional problems, and Spacesaver's tongue and groove concept does not "obviate vertical movement" of the adjoining track sections. On the other hand, NOS insists that the White system is superior and compares many of its design features to those of Spacesaver's. For instance, the protester states that White's use of steel shim under the butt joints "obviates" any sagging of the track, White's track is anchored and leveled and disperses the load evenly, there is no misalignment nor difference in levels of adjoining track at the butt joints since these are polished to the same heights, all

⁴NOS also contends that the agency erred in awarding non-FSS items under this delivery order. In a written justification for these open market items, the contracting officer noted that front loading blueprint cabinets were not available from GSA schedule contractors and concluded that it was in the best interest of the government to obtain these front loading cabinets from Spacesaver, so that Spacesaver would be responsible for integrating them into the high density filing system. An agency may properly procure non-FSS items under a single procurement where, as here, the non-FSS items are incidental to the items being procured from an FSS vendor. See Design Contempo, Inc., supra.

White wheels are load and guide wheels and they install wheels at every splice point--the strongest possible solution. However, none of NOS's responses to the agency's assessment of the quality characteristics of the two filing systems demonstrates that the agency's assessment and conclusions were unreasonable. While the protester asserts, for example, that its use of a steel shim under the butt joints "obviates" any sagging of the track and that its track design has other superior features, it does not directly rebut the agency's finding that the butt joint design is a nondesirable feature which can cause stress and affect mechanical wear and system integrity. NOS has not established that the agency is incorrect in its technical conclusion that the design of the White system, which NOS basically concedes is different from the Spacesaver design, affects the durability and reliability of the White system. On this record, NOS's arguments simply represent its disagreement which does not itself render the technical comparison and conclusions unreasonable. Litton Sys., Inc., B-237596.3, Aug. 8, 1990, 90-2 CPD ¶ 115. In light of the above, we find no basis to disturb the agency's decision to select the Spacesaver system as the system which best meets the needs of the agency.⁵

The protest is denied.

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⁵While we do not specifically address NOS's other bases for protest such as the agency's alleged improper evaluation of its past performance, we have considered these allegations and consider them to be without merit.