



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Island Components Group, Inc.

File: B-281517; B-281550

Date: February 19, 1999

John J. Tiner for the protester.

Benjamin G. Perkins, Esq., Defense Logistics Agency, for the agency.

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DIGEST

Protests objecting to agency's evaluation of vendors' past delivery performance on the basis of data that do not distinguish between original and revised delivery dates are denied where agency demonstrates that delivery dates are never revised for the vast majority of contract line items; that data that do not distinguish between compliance with original and revised delivery dates still furnish meaningful information regarding a vendor's delivery performance; and that the agency will have no cost-effective means by which to evaluate past performance if it is not permitted to use the data.

DECISION

Island Components Group, Inc. protests the Defense Supply Center Richmond's (DSCR) inclusion in request for quotations (RFQ) Nos. SPO400-99-T-1755 and SPO430-99-Q-B271 of a clause providing for the evaluation of vendors' past performance on the basis of scores computed using the agency's Automated Best Value Model (ABVM). The protester argues that the data regarding delivery performance used by DSCR in computing the ABVM scores is open to manipulation by vendors because it does not distinguish between original and revised delivery dates and thus should not be relied upon.

We deny the protests.

DSCR issued RFQ No. SPO400-99-T-1755 for 21 electrical contact brush holder assemblies on October 30, 1998, with a due date for quotations of November 14. It issued RFQ No. SPO430-99-Q-B271 for 10 tachometer generator motors on November 10, with a due date for quotations of November 30. Each RFQ included DSCR's ABVM clause, which provides for selection of the vendor whose quotation represents the best value to the government, price and past performance

considered.¹ The clause explains that each vendor will be assigned an ABVM score, derived by combining delivery and quality scores,² for each Federal Supply Class in which it has performed. The delivery score is based on a formula which considers the percentage of items tendered on or before the contract delivery date and the number of days the other items are past due.³ The quality score is based on reported product and packaging deficiencies. The scores are recalculated each month as new performance data become available.⁴

SAMMS, the computer system that maintains the data used to compute the ABVM scores, currently has only one data field to measure delivery date. If a contract is modified to change the delivery date, the new date appears in this field, without any indication that it is a revised date, and the system measures the vendor's performance from the new date. Thus, the system has no way of distinguishing between a contractor who meets an original delivery date and a contractor who meets an extended one.

Island Components argues that because the current system is incapable of distinguishing between vendors who have complied with their original delivery commitments, and those who have complied with delivery dates extended through contract modifications, vendors with deep pockets can in effect purchase more favorable ABVM ratings by agreeing to pay DSCR to extend delivery dates with

¹The ABVM clause gives the contracting officer the option of weighting performance more heavily than price, weighting price more heavily than performance, or giving the two equal weight; in both of the RFQs in question here, the two factors were given equal weight.

²The ABVM clause also gives the contracting officer the discretion to make quality performance more important than delivery performance, delivery performance more important than quality performance, or the two of equal value; again, in both RFQs here, the two were given equal weight.

³The delivery rating is computed using the following formula: ("days late" rating x .4) + ("percent on time" rating x .6). The "days late" rating is calculated by subtracting from 100 the total number of days late on all late items divided by the number of line items shipped during the rating period. The "percent on time" rating is calculated by subtracting from 100 the number of line items late divided by the number of line items shipped during the rating period.

⁴The agency is currently in the process of transitioning from a 12-month rating period to a 24-month rating period; starting in October 1998, an additional 1 month has been added to the rating period each month, so that at the time the agency submitted its report in response to this protest in December 1998, the rating period was 15 months.

which they are unable to comply. This is unfair, the protester maintains, because some vendors may not have the financial resources to pay for such extensions, and as a result may receive comparatively lower ABVM scores. Until it has a system in place that will allow it to distinguish between vendors who have complied with their original delivery commitments and those who have complied with revised delivery schedules, DSCR should not evaluate vendors' delivery performance, the protester asserts.

Agencies enjoy broad discretion in the selection of evaluation criteria, and we will not object to an agency's use of particular criteria so long as they reasonably relate to the agency's needs in choosing the vendor that will best serve its interests. Leon D. DeMatteis Constr. Corp., B-276877, July 30, 1997, 97-2 CPD ¶ 36 at ¶ 3-4. The question for our consideration here is thus whether the use of data that do not distinguish between original and revised delivery dates provides the agency with a reasonable basis for assessing a vendor's delivery performance.

The agency maintains that although it is not currently getting as detailed a picture regarding delivery performance as it would like due to the inability of the SAMMS system to distinguish between original and revised delivery dates (a situation which it has taken steps to correct⁵), the current data do provide it with a reasonable basis for assessing vendors' past performance. In this regard, the agency points out that the delivery date is extended for less than 2 percent of contract line items;⁶ thus, for more than 98 percent of contract line items, SAMMS accurately reflects whether a vendor has complied with its original delivery deadline. The agency also notes that although the current system does not permit it to distinguish between vendors who comply with their original delivery commitments and those who

⁵DSCR notes that it has taken steps to address the shortcomings in its current data collection system by requesting that an additional date field and a field indicating the cause for a delay (*i.e.*, whether government or contractor) be added to SAMMS. The change is expected to be implemented by late 1999. To address the situation in the interim, the agency has issued an order to a contractor to make changes to the Automated Best Value System (through a non-SAMMS interface) to capture the reasons for contract delivery extension and to account for contractor-caused delays in measuring contractor delivery performance. These changes are expected to be implemented by March 1999.

⁶DSCR notes that while its data systems do not capture information regarding the number of line items for which delivery extensions were granted, its records do enable it to identify the number of line items for which modifications were issued (a set of which delivery extensions are a subset). These figures show, for example, that of the 345,627 contract line items awarded by DSCR in 1997, only 4,177 (*i.e.*, approximately 1 percent) were modified; similarly, of the 329,023 contract line items awarded by DSCR in 1998, only 2,686 (*i.e.*, less than 1 percent) were modified.

comply with extended dates, it does allow it to distinguish between those who are willing to compensate the government for their lateness (through payment of consideration) and those who are not, which is a valid matter for it to consider in determining the vendors with whom it wishes to do business.

DSCR further argues that until it is able to compile a body of new data distinguishing between original and revised delivery dates, it should be permitted to rely on data that does not so distinguish because it cannot calculate ABVM scores without it, and without ABVM scores, its contracting officers will be unable to evaluate delivery performance without examining performance on individual contracts, a burdensome and labor intensive procedure that is simply not cost-effective for most DSCR procurements, given their small dollar values.⁷

We think that DSCR has demonstrated that use of its current data provides a reasonable basis for assessing vendor past performance. For the vast majority of contract line items, the inability of the system to distinguish between original and extended delivery dates is of no consequence since the delivery date has not been extended. Thus, the potential inequity Island Components posits--the ability of a company with adequate financial resources to improve its ABVM score by compensating the government in exchange for delivery date extensions--is not of widespread concern. Further, although not permitting the agency to distinguish between vendors who comply with their original commitments and those who comply with revised schedules, the data do allow DSCR to distinguish between vendors who are willing to compensate the government for their lateness and those who are not, a factor that we think the agency may legitimately consider in evaluating delivery performance. Finally, we think that the value to the agency of the ABVM scoring system outweighs any hypothetical unfairness to those companies that choose not to offer compensation. As the agency states, without the data, the agency will be unable to generate past performance scores on an automated basis, which means that it would have no cost-effective means of evaluating past performance.

The protests are denied.

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⁷DSCR offers, by way of illustration, the following data regarding December 1998: of 33,841 purchase requests open, 19,330 had estimated values of less than \$2,500, while another 10,523 had estimated values between \$2,500 and \$25,000. In other words, approximately 88 percent of the purchase requests had estimated values below \$25,000.