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Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Planned Systems International, Inc.

File: B-290626

Date: September 4, 2002

Richard L. Moorhouse, Esq., and Dorn C. McGrath III, Esq., Reed Smith, for the protester.

Captain Parag J. Rawal, Department of the Army, for the agency.

Charles W. Morrow, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Procuring agency properly calculated protester's quoted price based upon the labor hour estimates identified by the request for quotation (RFQ), rather than the protester's own estimates, where the RFQ only sought vendors' fixed labor hour rates which were to be applied against the stated labor hour estimates to determine vendors' net quoted prices and award was to be made upon the basis of price.

DECISION

Planned Systems International, Inc. protests the issuance of a purchase order to Federal Resources Corporation under that firm's Federal Supply Schedule (FSS) contract, pursuant to request for quotations (RFQ) No. DAMD17-02-T-0137, issued by the United States Army Medical Research Acquisition Activity for video teleconferencing services. Planned Systems contends that the Army improperly recalculated its quoted price.

We deny the protest.

The Army issued the RFQ on April 12, 2002 to obtain fixed unit-price quotes for various video teleconferencing services under the FSS to support the United States Army Medical Information Systems and Services Agency at San Antonio, Texas, for a 3-month base period and 2 option years. The RFQ identified 12 contract line items (CLIN), for each of which vendors were to provide a unit price and an extended (net) price. Nine of the CLINs provided a specific quantity of labor hours, which represented the government's estimate of the work for the item and against which a vendor's unit price would be applied to determine the extended total for these

CLINs.¹ See RFQ § B, at 2-6, and Independent Government Estimate at 17-19. For example, CLIN 0005, which was for the provision of a hardware/software installation technician for the first option year, stated an estimate of 9,800 labor hours. Other than the price schedule in section B, the RFQ did not include any specific instructions to quoters concerning the preparation or evaluation of quotations.

The Army solicited quotes from four FSS vendors, including Planned Systems and Federal Resources. All of the vendors but Planned Systems furnished quotes that were based upon the estimated quantity of labor hours stated in the RFQ. Planned Systems' quote, however, was based upon providing less than the estimated quantity of labor hours for six CLINs. For example, for CLIN 0005 Planned Systems quoted a fixed labor hour rate and identified the number of labor hours for the CLIN as 9,400 hours (rather than the 9,800 identified by the RFQ); Planned Systems then multiplied its labor rate against its own "proposed" 9,400 hours to determine its extended price for this CLIN.

Although the protester's overall quoted price appeared to be lower than that of the other vendors, the Army recognized that Planned Systems had not based its quote upon the labor hours identified in the RFQ, as had the other vendors. To evaluate Planned Systems' quote, the Army recalculated the quote by multiplying Planned Systems' quoted unit prices by the number of labor hours for each item identified in the RFQ. This resulted in Planned Systems' quoted price being increased by approximately \$70,000. Based upon this adjustment, the Army found that Federal Resources had submitted the lowest quote. The agency issued an order to Federal Resources, and Planned Systems protested to the agency. After the Army denied Planned Systems' agency-level protest, this protest followed.

Planned Systems contends that the Army should not have adjusted its extended CLIN prices, arguing that the reference in its quote to different labor hours than those contained in the RFQ was immaterial, given that the quote contained a "firm-fixed price net amount for the combined CLINs for each year." Protest at 4. Planned Systems argues that the RFQ provided for the evaluation of quote on a "total aggregate bottom line 'NET AMT' price" basis and that Planned Systems would be required to perform all of the agency's requirements at the protester's total "net amount" price (as based upon Planned Systems' lower labor estimates). *Id.* Planned Systems asserts that interpreting its submission this way is reasonable, since the RFQ did not include preparation instructions, or any provisions on how the government would evaluate submissions.²

¹ The other line items sought prices for other direct costs such as travel and training.

² Planned System also asserts that the RFQ was materially defective because the solicitation did not inform vendors how options would be evaluated. See Protester's Comments at 4. Planned Systems further complains that it accurately based its quote on a federal productive staff-year of 1,880 hours, and that the RFQ's higher
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Where, as here, price is the only term requested by a solicitation and no evaluation criteria are specified, price is necessarily the sole evaluation criterion. United Marine Int'l LLC, B-281512, Feb. 22, 1999, 99-1 CPD ¶ 44 at 4. The question presented in this protest is how price was to be evaluated.

The protester's argument that the Army must accept the protester's "fixed-price net amount," which was based upon the protester's own lower labor estimates, fundamentally misunderstands what was requested by the RFQ. Despite the lack of explicit instructions regarding quote preparation and evaluation, we find that the RFQ unequivocally provided for the evaluation of quotes on the basis of the solicitation estimates. That is, the RFQ in section B listed, for the CLINs in question here, the precise quantity of labor hours for that CLIN. Vendors were requested to provide only their "unit price," which for these CLINs would be the vendors' fixed labor hour rate, and to provide an extended CLIN price, which reflected the labor hour rate multiplied against the labor hour estimate. The RFQ did not request that the vendors provide their own estimates of the amount of labor required to perform the CLINs.

We find reasonable the Army's evaluation of the protester's quote. Faced with a quote that was not based upon the solicitation's estimated labor hours, the agency properly calculated the protester's net quote price by multiplying the protester's fixed unit prices (that is, labor hour rates) against RFQ estimates. In the context of this solicitation, allowing one vendor to use lower labor hour estimates than that required for, and relied upon by, the other vendors would have resulted in an unfair and unequal competition. See Ross Aviation, Inc., B-219658, Dec. 11, 1985, 85-2 CPD ¶ 648 at 4.

The protest is denied.

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General Counsel

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labor estimates may violate the Service Contract Act of 1965. Protest at 3; Protester's Comments at 3-4. These post-award complaints are untimely challenges of alleged apparent solicitations improprieties that were required to be filed prior to the time set for receipt of initial submissions. 4 C.F.R. § 21.2(a)(1) (2002).