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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Allmond & Company

File: B-298946

Date: January 9, 2007

Ira E. Hoffman, Esq., Hoffman & Associates, P.C., for the protester.

Sheryl A. Butler, Esq., Department of Justice, Drug Enforcement Administration, for the agency.

Linda S. Lebowitz, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

When conducting a procurement under the Federal Supply Schedule (FSS) program, contracting agency satisfies applicable statutory and regulatory competition requirements when it solicits quotations from at least three FSS contractors able to meet the agency's needs; the agency is not required to solicit the incumbent FSS contractor to participate in the competition.

DECISION

Allmond & Company protests the failure of the Department of Justice, Drug Enforcement Administration (DEA), to provide it a copy of request for quotations (RFQ) No. 06-FN-0055, issued under the General Services Administration (GSA) Federal Supply Schedule (FSS) program for accounting support services. Allmond, the incumbent FSS contractor, has provided these services to DEA since 2001. Allmond maintains that DEA improperly failed to solicit the firm for the follow-on requirements.

We deny the protest.

In 2001, DEA established a blank purchase agreement (BPA) with Allmond under its FSS contract No. GS-25F-0111L for financial and accounting services for the period of April 24, 2001 through April 23, 2006. Task orders were issued under the BPA on an annual basis. On September 23, 2005, via modification No. 4, the agency extended Allmond's BPA through September 29, 2006.

On September 18, 2006, in accordance with Federal Acquisition Regulation (FAR) § 8.405-2, captioned “Ordering procedures for services requiring a statement of work,” DEA issued the RFQ at issue here in order to establish a new BPA for the services, again under GSA’s FSS program. The RFQ contained a performance-based statement of work and evaluation criteria in accordance with the referenced FAR provision. DEA provided the RFQ to five small businesses, each of which held an FSS contract under GSA’s Special Item No. 520, Category 12, entitled “Financial and Business Solutions Complementary Financial Management Services.” DEA did not provide the RFQ to Allmond.

Of the five firms solicited, DEA received two quotations by the closing date of September 25, 2006. On September 26, 3 days before its BPA was to expire, Allmond requested a copy of the RFQ from DEA. DEA declined to provide a copy of the RFQ to Allmond on the basis that the firm’s request was not timely, that is, Allmond made the request after the closing date for receipt of quotations.

The agency evaluated the two quotations received and determined that the quotation from Bradson Corporation represented the best value to the government. Accordingly, on September 29, DEA established a BPA with Bradson for the period of September 29, 2006 through December 31, 2007.

Allmond complains that in not furnishing the firm a copy of the RFQ, DEA improperly denied it, the incumbent FSS contractor since 2001, an opportunity to compete for DEA’s follow-on requirements.

The FSS program, which is directed and managed by GSA, provides federal agencies with a simplified process for obtaining commonly used commercial supplies and services at prices associated with volume buying. FAR § 8.402(a). The procedures established for the FSS program satisfy the general statutory requirement for full and open competition. See 41 U.S.C. § 259(b)(3) (2000); FAR §§ 6.102(d)(3), 8.404(a); Sales Res. Consultants, Inc., B-284943, B-284943.2, June 9, 2000, 2000 CPD ¶ 102 at 3.

In this case, the agency issued the RFQ for its follow-on requirements to five FSS contractors, two of which submitted quotations. Generally, for orders not exceeding the maximum order threshold, the solicitation of quotations from three FSS contractors able to meet the agency’s needs is adequate. FAR § 8.405-2(c)(2)(ii); see Computer Universal, Inc., B-291890, B-291890.2, Apr. 8, 2003, 2003 CPD ¶ 81 at 2. The applicable statute¹ and regulations simply do not require an agency to solicit the

¹ In its comments on the agency report, the protester argues that DEA’s failure to solicit it is inconsistent with the language in 41 U.S.C. § 259(b)(3) which provides that FSS procedures constitute competitive procedures if “participation in the program has been open to all responsible sources,” 41 U.S.C. § 259(b)(3)(A), and “orders and contracts under such procedures result in the lowest overall cost alternative to meet the needs of the Government.” 41 U.S.C. § 259(b)(3)(B). The

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incumbent FSS contractor. See Cybertech Group, Inc. v. United States, 48 Fed. Cl. 638, 648 (2001). Accordingly, we conclude that DEA complied with the applicable competition requirements here.

The protest is denied.

Gary L. Kepplinger
General Counsel

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protester misinterprets the statutory language. First, subparagraph (a) refers not to a specific procurement, but to whether the “program”—meaning the FSS program—has been open to all responsible offerors, a fact not in dispute here. See Sales Res. Consultants, Inc., supra. Second, subparagraph (b) refers to the agency’s determination regarding what its needs are and which FSS services (or supplies) meet those needs at the lowest overall cost. Id.; Delta Int’l, Inc., B-284364.2, May 11, 2000, 2000 CPD ¶ 78 at 4.