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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Solec Corporation

File: B-299266

Date: March 5, 2007

David A. Hearne, Esq., Outland, Gray, O'Keefe & Hubbard, for the protester.
Kenneth T. Rye, Esq., and Scott Garner, Esq., Department of the Navy, for the
agency.

Paul E. Jordan, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest that awardee's proposal to perform repairs outside area where repair items
originate is denied where solicitation did not expressly limit competition to offerors
in any specific geographical location.

DECISION

Solec Corporation protests the award of a contract to Tigertek Industrial Services
under request for proposals (RFP) No. N62381-06-R-1001, issued by the Department
of the Navy for electric motor repair services. Solec asserts that Tigertek failed to
meet a geographical restriction in the RFP.

We deny the protest.

The Military Sealift Fleet Support Command (MSFSC) operates various ships in
support of the Navy's combatant fleet. The RFP, a small business set-aside,
contemplated the award of a fixed-price requirements contract for the repair,
reconditioning, and replacement of various motors and fans on MSFSC vessels
located at government piers. Proposals were to be evaluated on the basis of six
factors: understanding the scope of work, facilities, management control and quality
assurance, experience, past performance, and price. Award was to be made to the
firm submitting the lowest-priced technically acceptable proposal.

Under the heading "location," the RFP provided that the contractor was "required to
perform the work as ordered onboard" MSFSC vessels, with the work generally to be
performed at government piers in the Tidewater, Virginia area, including Norfolk,

Portsmouth, Virginia Beach, Newport News, and Williamsburg. The RFP's statement of work (SOW) provided detailed descriptions of the different fan repair items, all of which began with work on the ships and included removal of the fans, repair and testing at the contractor's facility, and reinstallation. Some tasks had to be witnessed by the contracting officer's representative or port engineer at the contractor's repair facility.

Solec, the incumbent contractor, and Tigertek were the only offerors to submit proposals. After the initial evaluation, the agency held discussions with and obtained revised proposals from both firms. Based on Tigertek's lower proposed price, the agency awarded it the contract. After learning of the award, Solec filed this protest.

Solec's protest is based on the following note in the RFP's section F, entitled "deliveries or performance":

NOTE: ALL WORK/REPAIRS WILL BE IN THE TIDEWATER, VA. AREA. IF WORK IS REQUIRED OUTSIDE THE TIDEWATER, VA AREA, THE CONTRACTOR SHALL REQUEST AND SECURE WRITTEN APPROVAL OF THE CONTRACTING OFFICER PRIOR TO PERFORMANCE OF SUCH TRAVEL. IN ANY EVENT, APPROVED TRAVEL SHALL NOT EXCEED APPLICABLE RATES [SPECIFIED] BY DOD JOINT TRAVEL REGULATIONS.

RFP at 48. In Solec's view, this RFP language required all work--both onboard the ships and at the contractor's repair facility--to be performed in the Tidewater area. Solec concludes that Tigertek, a North Carolina firm, cannot meet this requirement and, thus, was ineligible for the award. The agency maintains that there was no geographical restriction for off-ship repair work, and that Tigertek met the RFP's requirements. According to the agency, the noted language was intended to address potential work on ships located outside the Tidewater area.

In order to be deemed reasonable, an interpretation of a solicitation provision must be consistent with the solicitation when read as a whole and in a reasonable manner. Burns and Roe Servs. Corp., B-251969.4, Mar. 1, 1994, 94-1 CPD ¶ 160 at 7. We will not read a provision restrictively where it is not clear from the solicitation that such a restrictive interpretation was intended by the agency. International Data Prods.; Commax Techs., Inc., B-275480.2 et al., Apr. 3, 1997, 97-1 CPD ¶ 179 at 4.

We find no basis to conclude that the RFP restricted the competition to firms located in the Tidewater area. There was no provision in the RFP that expressly restricted the competition based on a firm's location--in the Tidewater area or otherwise. The only specific RFP references to locations were related to the ships where the repair items are installed, not to the contractors' repair facilities. In this regard, while under the heading "location" the SOW expressly required performance onboard MSFSC vessels at government piers in the Tidewater area, it did not similarly

expressly require that off-ship repairs be performed in that area. In the same vein, while the note quoted above, on which Solec relies, stated that “ALL WORK/REPAIRS WILL BE IN THE TIDEWATER VA AREA,” it did not expressly state that the contractor had to be located in the Tidewater area. On the other hand, there are indications that the RFP was not intended to establish a geographical restriction. First, the note acknowledged that work may be performed outside the Tidewater area with the contracting officer’s permission.¹ In addition, the RFP required that offerors include all anticipated travel costs in their proposed pricing, suggesting that the agency contemplated that the contractor might need to travel between the vessels and its facility. RFP § H.4. Tigertek’s proposal specifically addressed this requirement by explaining that it would cover all costs of travel to and from ships to perform the contract, noting that its free pickup and delivery area included Tidewater, VA. Proposal at 2. In any case, absent clear language limiting offerors’ eligibility to compete based on their location, we will not interpret the RFP to include one. International Data Prods.; Commax Techs., Inc., supra. Thus, the agency reasonably concluded that Tigertek’s proposal to perform work in North Carolina was technically acceptable.²

Solec asserts that performance at Tigertek’s facility will be more expensive than performance by Solec due to additional travel and personnel costs resulting from the need for agency personnel to travel to Tigertek’s facility for required inspections. However, the RFP did not provide for evaluation of such costs; thus, they could not be considered in the award decision.

The protest is denied.

Gary L. Kepplinger
General Counsel

¹ It appears to us that, rather than a geographical restriction, this note was intended only to apprise offerors that when the agency “required” them to obtain repair items from outside the Tidewater area, additional travel had to be approved in writing and would be subject to Department of Defense Travel Regulations.

² Solec asserts that location of a repair facility in the Tidewater area represented a definitive responsibility criterion that Tigertek did not meet. See Charter Env'tl., Inc., B-297219, Dec. 5, 2005, 2005 CPD ¶ 213 at 2. However, it follows from our conclusion that the RFP did not contain any restriction on the location of an offeror’s repair facility that there was no definitive responsibility criterion setting forth such a restriction.