

October 27, 1995

P.S. Protest No. 95-16

BLAIR TEMPORARIES AND STAFFING

Solicitation No. 102590-94-A-0106

DIGEST

Protest against award of contract for temporary services is denied. Protester which was eliminated from the competitive range and which fails to challenge that elimination lacks standing to challenge the award.

DECISION

Blair Temporaries and Staffing protests the award of a contract for temporary services to Manpower International, Inc.

Solicitation 102590-94-A-0106 was issued May 16, 1994, by Services Purchasing at Postal Service headquarters, seeking proposals for a time and materials/labor hours contract for temporary services for a 24-month period, with two one-year options.

Section M.2, Contract Award and Proposal Evaluation, provided in part as follows:

a. Award will be made to the responsible offeror whose proposal offers the best value to the Postal Service, (i.e., a combination of price, price-related factors, and/or other factors). The primary areas to be used in determining which proposal offers the best value are listed below in descending order of importance:

Managerial Organization
Program Management
Company Experience
Resources & Commitments
Personnel Qualifications

Note: The Technical Evaluation areas noted above **Shall** be considered **More Important** than Cost/Price considerations.

b. Cost/price will be considered in the award decision, although the award may not necessarily be made to that offeror submitting the lowest price.

Provision M.1 c. required the successful offeror to have an acceptable "Small, Minority-owned, and Woman-owned Subcontracting Plan."

Although services might be required at locations throughout the United States, the solicitation provided that price proposals would be evaluated only for the Washington, DC, area, where the majority of the work was expected to be performed, and that rates for other areas would be negotiated with the successful offeror.

Proposals were received in July, 1994. Following separate evaluations of the technical and price proposals, a competitive range determination was made. Blair was one of eleven offerors submitting offers in response to the solicitation, but its proposal was found not to be within the competitive range, a fact of which Blair was advised in January, 1995. After written discussions were conducted with the firms in the competitive range, best and final offers were received and award was made to Manpower on May 5. Blair's protest was received May 22.

The protest contends that it is improper to award to a foreign owned entity which will manage the contract from Germany a contract of this size¹ "which can have a direct impact on a critical community nerve center . . . [and] also . . . on every U.S. citizen. . . ."

The protest contends that the fact that 80% of the temporary staffing services will be located in the Washington, D.C., area, raises "a critical question[] relating to the distribution of administrative costs versus the distribution of those funds to cost effective service delivery systems." Blair contends that it would have generated cost savings as compared to Manpower. Further, Blair contends that "[t]here has been no indication that there is a legitimate allowance for minority participation."

Noting that Blair's protest fails to challenge its exclusion from the competitive range, the contracting officer's statement cites a previous decision of this office, *Barber-Colman Company, P.*, S. Protest No. 90-34, December 51990, for the proposition that when an offeror, excluded from the competitive range, would not be eligible for award even if its protest were meritorious, it lacks standing to protest the award.

On the merits, the statement notes that Manpower is not foreign-owned (although a British firm once had an interest in it) and will not be managing the contract from Germany, and in any event nothing in the solicitation precluded the participation of foreign firms. Further, although the solicitation did not require local management of the services to be provided in Washington, Manpower has offices in the Washington area, and plans to manage

¹ The contract has the potential for over \$10,000,000 in services in the first two years. Blair contends that the contract will be "funded by taxpayers[] money from the U.S. Treasury." This contention reflects a common misunderstanding of the manner in which the Postal Service is funded; in fiscal year 1994, appropriated "taxpayer funds" totaled \$131.4 million, about a third of one percent of the Postal Service's \$47.7 billion operating revenues received from postal ratepayers. During the same period, approximately \$4,890 million dollars in costs were transferred from the U.S. Government to the Postal Service. *Comprehensive Statement on Postal Operations, 1994*, Tables 4, 5, and 7.

Washington services here. With respect to minority participation, Manpower has complied with the requirement for a satisfactory subcontracting plan for small, minority-owned and women-owned businesses.

Further, the contracting officer's statement notes that the protest's contentions that the solicitation should have provided differently concerning foreign ownership or minority participation have been untimely raised.

DISCUSSION

We agree with the contracting officer that Blair lacks standing to challenge the award to Manpower, since it would not be in line for award were its challenge to prevail, *Barber-Colman, supra*. We further agree that many aspects of its protest are untimely.² In any event, none of the issues presented appear to be meritorious.³

The protest is dismissed.

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Contract Protests and Policies

² In addition to the points cited by the contracting officer, Blair's contention that an issue arises out of the solicitation's assumption that 80% of the services will arise in the Washington area clearly is an alleged deficiency in the solicitation which may not be considered because it was not raised before offers were due. Procurement Manual (PM) 4.6.4 b.

³ This is one of two protests received with respect to this solicitation and award; the decision has been delayed for contemporary issuance with its companion, *Kelly Services, Inc.*, P.S. Protest No. 95-17, October 27, 1995.