



G A O

Accountability * Integrity * Reliability

**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Global Solutions Network, Inc.

File: B-294054; B-294054.2

Date: August 10, 2004

Gerald H. Werfel, Esq., Pompan, Murray & Werfel, for the protester.
David T. Copenhaver, Esq., Bureau of the Public Debt, Department of the Treasury,
for the agency.
Edward Goldstein, Esq., and Christine S. Melody, Esq., Office of the General
Counsel, GAO, participated in the preparation of the decision.

DIGEST

Cancellation of request for proposals for support services is unobjectionable where agency reasonably determined that the solicitation failed to reflect its minimum needs.

DECISION

Global Solutions Network, Inc. protests the cancellation of request for proposals (RFP) No. BPD-02-R-0018, issued by the Bureau of the Public Debt, Department of the Treasury, for support services. Global maintains that the decision to cancel the solicitation lacks a reasonable basis.¹

We deny the protest.

¹ Global also argues that the agency plans to fulfill its current requirements under the canceled solicitation by issuing task orders under other contracts in violation of the Federal Acquisition Regulation requirement to set aside the subject requirements for small business concerns. The agency states, however, that it has not transferred the work under the canceled solicitation to any other contract and that it has not decided how it will fulfill these requirements. In view of the agency's representations, this basis of protest is speculative and premature. See Parcel 47C LLC, B-286324, B-286324.2, Dec. 26, 2000, 2001 CPD ¶ 44 at 10 n.13 (dismissing protest allegation that merely anticipated improper agency action).

The Bureau of the Public Debt awards contracts on behalf of the Department of the Treasury's nine FedSource branch offices, which operate as part of the Department of the Treasury's "franchise fund."² The branch offices essentially market and provide a wide range of support services to other agencies on a reimbursable basis.

On August 23, 2002, the Bureau of the Public Debt issued the subject RFP as a set-aside for small business concerns, with a portion reserved for Historically Underutilized Business Zone (HUBZone) concerns, to provide the FedSource-Denver office with a contractual mechanism for ordering "various support services" for its customers, which include "other federal agencies." Contracting Officer's Statement at 1; RFP § C.2.a.

The RFP contemplated multiple awards of indefinite-delivery/indefinite-quantity contracts with a base period of 1 year plus four 1-year option periods. Offerors could compete for the award of a HUBZone contract with a nationwide geographic scope (excluding the state of Colorado); a non-HUBZone nationwide contract (excluding Colorado); a Colorado-only contract; or a combination of these awards. RFP § M.2.b. Offerors competing for the nationwide contracts were advised that they must be "immediately capable of providing services on a nationwide basis in at least 50% of the states in the continental United States in all four labor categories" RFP § M.2.c.

The RFP divided the general requirement for support services into four labor categories: (1) general administrative, (2) technical, (3) professional, and (4) industrial, and indicated that task orders could be issued on a fixed-price, labor-hour, or time-and-materials basis for the services provided.³ The aggregate value of the task orders issued under the contracts awarded could not exceed \$250 million. RFP § B.4.

By the RFP closing date, the agency had received 14 proposals for the nationwide portion of the solicitation and 23 proposals for the Colorado portion. On

² Pursuant to the Government Management Reform Act of 1994, Pub. L. No. 103-356, 31 U.S.C. § 501 note (2000), Congress authorized the establishment of six franchise fund pilot programs to provide common support services to federal agencies on a reimbursable basis. The Department of the Treasury operates one of the six franchise funds.

³ The solicitation provided general descriptions of the four labor categories. For example, the solicitation describes the "professional" category as "includ[ing] occupations having a recognized status based upon acquiring professional knowledge through prolonged study." RFP § B.11.b.3.

September 9, 2003, the agency identified nine apparent successful offerors. Prior to award, however, the agency received five small business size protests, which were submitted to the Small Business Administration for resolution. All of the protests and appeals were ultimately resolved by April 20, 2004.

While the size protests and appeals were pending, the Acting Franchise Fund Manager made a decision to consolidate contracts across the nine FedSource offices. This decision was documented in an internal memorandum dated March 12, 2004. The memorandum explained that consolidation was intended to eliminate “wasted time, effort and expense” for FedSource, the Bureau of the Public Debt, and their contractors resulting from the nine FedSource offices operating as separate autonomous entities and issuing duplicate contracts with different terms and conditions. Agency Report, Tab 16. In addition, the memorandum noted that there was an immediate need to award a contract to cover several of the FedSource offices, and because the subject FedSource-Denver solicitation did not have a dollar ceiling high enough to cover the needs of the other FedSource offices, the agency determined that it made “good business sense” to issue a master contract for all nine offices, otherwise the agency would “have yet another set of different contracts to manage and eventually merge anyway.” Id.

Thereafter, the contracting officer issued a letter dated April 27, 2004 canceling the solicitation. In the letter, the contracting officer explained that due to the implementation of new management and business practices, the agency intended to issue a solicitation that was capable of serving the needs of all nine FedSource offices and that the agency expected to issue the solicitation within 4 to 6 months. Specifically, the letter stated:

FedSource has historically operated as nine separate, autonomous entities. Most entities have had their own set of contracts to support its customer requirements and the terms and conditions of the contractual vehicles have varied. . . .

As a result of the changes in the FedSource structure, current contracts, and projected needs, it has been determined that a solicitation allowing for multiple awards to serve the needs of all nine FedSource offices will be issued. Issuing a FedSource-wide action will eliminate duplicative solicitations for the same services. This will enable the Government to consolidate its administration to a single set of contracts resulting in greater efficiency and lower costs. In addition, contractors will benefit from a single set of terms, conditions, [and] procedures when doing business with FedSource regardless of which of the nine offices requires these types of services.

Protest, Exh. 2.

Global challenges the agency's decision to cancel the RFP. An agency need only advance a reasonable basis to cancel a request for proposals. See Daston Corp., B-292583, B-292583.2, Oct. 20, 2003, 2003 CPD ¶ 193 at 3. Cancellation is proper where award under the solicitation would not meet the government's actual needs, and the agency properly may cancel a solicitation no matter when the information precipitating the cancellation first surfaces or should have been known, even if cancellation occurs after proposals have been submitted. Id. As explained below, we conclude that the agency had a reasonable basis to cancel the RFP here.

According to the agency, it canceled the RFP in support of its effort to consolidate contracting across the nine FedSource offices. The agency decided to implement a consolidated contracting approach in order to save time, effort, and expense by eliminating the need to manage and maintain otherwise duplicative contracts separately awarded by each FedSource office. Global does not contend that the agency's rationale for consolidation is unreasonable or invalid.⁴ Rather, the protester maintains that the agency's fundamental requirements under its consolidated approach are no different from those called for under the FedSource-Denver solicitation, which requires various types of support services on a nationwide basis. Because the solicitation is capable of satisfying the agency's needs, according to the protester, there was no reason to cancel the solicitation.

The agency, however, indicates that the FedSource-Denver solicitation will not meet its needs because the aggregate dollar ceiling of \$250 million is not sufficient to satisfy the requirements for all nine FedSource offices for a base year, which the agency estimates to be approximately \$300 million annually for both fiscal years 2004 and 2005, or for the 5-year period from fiscal year 2005 through 2009, which the agency estimates as more than \$2 billion. Global argues that the government's estimate for fiscal year 2004 is overstated and maintains that the agency could use the subject solicitation to meet its requirements for a base-year period by issuing task orders for the entire \$250 million in that year.⁵ Other than the protester's

⁴ Global specifically states that the agency's decision to use a single contract vehicle covering all the different FedSource locations throughout the United States is a "business judgment" that is "not the subject of this protest." Comments at 4. In this regard, however, Global expressed its concern that by combining requirements under a single solicitation the agency will violate the rules related to contract bundling and indicated that to the extent the agency does not comply with the bundling rules, it will pursue the appropriate legal remedies at that time. Thus, the question of whether the agency's intended contract consolidation constitutes improper bundling is not an issue for resolution in this protest.

⁵ Specifically, Global asserts that the estimate is unreasonable because it is substantially greater than the agency's actual purchases in fiscal year 2003 of \$201,168,271, and that an increase to more than \$300 million is inconsistent with the agency's revenue growth rate predictions.

speculation, however, there simply is nothing in the record that casts material doubt on the agency's estimates of its requirements.

Moreover, even assuming that the current solicitation was capable of meeting the agency's requirements for a base year, the agency has indicated that it requires a support service contract capable of servicing the nine FedSource offices on a consolidated basis for the next 5 years, with a dollar ceiling in excess of \$2 billion, and that the agency expects to issue such a solicitation within the next few months.⁶ The protester does not argue or suggest that the subject solicitation is capable of meeting such a requirement. Since the agency's consolidated needs for a base year plus option years clearly exceed the scope of the current solicitation, the agency reasonably canceled the RFP in favor of a solicitation that is consistent with the agency's contract consolidation effort and with the magnitude of the combined requirement. See id.; USA Elecs., B-283269.2, Oct. 5, 1999, 99-2 CPD ¶ 67 (holding that agency reasonably canceled solicitation where the agency's requirements had increased).

The protest is denied.

Anthony H. Gamboa
General Counsel

⁶ While Global expresses disbelief that the solicitation will be issued within the timeframe established by the agency, it has provided no evidence to show that the agency's plans are unrealistic.