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Decision

Matter of: Greentree Transportation Company, Inc.

File: B-403556.2

Date: December 7, 2010

Michael A. Hordell, Esq., Stanley R. Soya, Esq., and Heather Kilgore Weiner, Esq., Pepper Hamilton LLP, for the protester.
Vera Meza, Esq., and John Dowling, Esq., Department of the Army, for the agency.
Paula J. Haurilesko, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

An agency reasonably canceled a solicitation where the solicitation failed to identify all significant evaluation factors and their relative importance.

DECISION

Greentree Transportation Company, Inc., of Pittsburgh, Pennsylvania, protests the cancellation of solicitation No. 4NXX100776F-SMM by the Department of the Army, Military Surface Deployment and Distribution Command, for freight transportation services.¹

We deny the protest.

The Army issued the solicitation on behalf of Hanscom Air Force Base (AFB) for the movement of various kinds of freight from the Air Force Research Laboratory at Hanscom AFB in Massachusetts to Kirtland AFB in New Mexico and to Wright-Patterson AFB in Ohio.² Agency Report (AR), Tab A, Statement of Transportation

¹ Greentree also alleged that the Army improperly disclosed Greentree's proprietary information, but withdrew this protest ground after our Office conducted an alternative dispute resolution conference with the parties.

² The Military Surface Deployment and Distribution Command acts as a liaison between government shippers and commercial carriers, and is responsible for the establishment and maintenance of contracts, solicitations, and agreements with the

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Management Specialist, at 1, 2. The solicitation requested that carriers submit a tender offer for the movement by completing a carrier worksheet and a detailed written transportation plan.³ AR, Tab E, Sol. -776F, at 2, 3. The solicitation provided that the transportation officer would select the responsible carrier offering best value to the government “based on, but not limited to, cost, capability, training requirements, and [Global Transportation Network] compliance and carrier performance history.” Id. at 6.

The Army received three rate tenders in response to the solicitation, including Greentree and McCollister’s Transportation Group, Inc. AR at 2. Following notification that the agency had selected Greentree for award, McCollister protested to our Office. Subsequently, the Army canceled the solicitation, and we dismissed McCollister’s protest as academic. Greentree then filed this protest with our Office.⁴

Greentree contends that the Army should not have cancelled the solicitation. In response, the Army explains that the solicitation did not identify all of significant evaluation factors and their relative importance, which rendered the solicitation defective. AR at 2-3. The Army further explains that it found that the record did not contain any contemporaneous documentation of the rationale for making award to Greentree. Id. at 3. Greentree argues that the transportation officer should have documented the evaluation of the proposals, rather than canceling the solicitation.⁵

Contracting officials in negotiated procurements have broad discretion to take corrective action where the agency determines that such action is necessary to ensure fair and impartial competition. Major Contracting Servs., Inc., B-400737.2, Dec. 17, 2008, 2008 CPD ¶ 230 at 2. Moreover, it is fundamental that offerors should be advised of the basis on which their proposals will be evaluated. C3, Inc., B-241983, B-241983.2, Mar. 13, 1991, 91-1 CPD ¶ 279 at 3. The Competition in Contracting Act of 1984, 10 U.S.C. §§ 2305(a)(2)(A)(i) and (ii) (2006), requires

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carrier industry to deploy and distribute Department of Defense supplies, personal property, and personnel worldwide.

³ This procurement was conducted under the Defense Transportation Regulation.

⁴ Greentree subsequently protested the terms of the replacement solicitation. After we conducted an ADR conference with the parties, the Army agreed to take corrective action, and we dismissed the protest as academic.

⁵ To the extent that Greentree suggests that the replacement solicitation has the same problems that the Army identified as part of the rationale for cancellation, we find that the replacement solicitation, in fact, identified all significant evaluation factors.

contracting agencies to set forth in a solicitation all significant evaluation factors and their relative importance. Id.

Here, the Army identified not only an issue with the documentation of the best value determination, but also a problem with the evaluation criteria in the solicitation. The solicitation stated that the factors were “based on but not limited to” the listed evaluation factors. This is inconsistent with the fundamental requirement that offerors be informed of all the significant evaluation factors and their relative importance. Correcting this error to allow for a fair and equal competition provides a reasonable basis for canceling the solicitation.⁶ As a general rule, in a negotiated procurement the contracting agency need only demonstrate a reasonable basis to cancel a solicitation after receipt of proposals. Rand & Jones Enters. Co., Inc., B-296483, Aug. 4, 2005, 2005 CPD ¶ 142 at 3.

The protest is denied.

Lynn H. Gibson
Acting General Counsel

⁶ We find no merit to Greentree’s belief that proposals may have been evaluated using only the identified evaluation factors, given the lack of contemporaneous documentation or explanation from the agency.