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Comptroller General  
of the United States

United States Government Accountability Office  
Washington, DC 20548

## Decision

**Matter of:** Nationwide Value Computer, Inc.

**File:** B-411190

**Date:** June 11, 2015

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David Cicchitti for the protester.  
Chinedum U. Okparaeké, Esq., Department of the Navy, Naval Sea Systems Command, for the agency.  
Paula A. Williams, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Agency reasonably determined that protester was not eligible for an award under a procurement set aside for small business concerns where the protester's representations and certifications in the System for Award Management indicated that it was not a small business.

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### DECISION

Nationwide Value Computer, Inc. (Nationwide), of Norristown, Pennsylvania, protests the issuance of a purchase order to Better Direct, LLC, under request for quotations No. N00024-14-R-5143, issued by the Department of the Navy, Naval Sea Systems Command (NAVSEA), for information technology support. Nationwide argues that the purchase order should have been issued to Nationwide because it submitted the lowest-price.

We deny the protest in part and dismiss it in part.

NAVSEA issued the combined synopsis/solicitation as a total small business set-aside under North American Industrial Classification System (NAICS) code 334118. The synopsis/solicitation was published using the FedBid website, pursuant to Federal Acquisition Regulation (FAR) subpart 12.6, Streamlined Procedures for Evaluation and Solicitation for Commercial Items.<sup>1</sup> The solicitation contemplated

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<sup>1</sup> FedBid, Inc. is a commercial online procurement services provider that runs a website at FedBid.com which, among other things, hosts reverse auctions. FedBid  
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the issuance of a purchase or delivery order for specified quantities of IBM blade center servers and other related peripheral equipment in support of the Navy's ship shelf defense system.

The solicitation incorporated by reference a number of standard Federal Acquisition Regulation (FAR) clauses governing commercial items acquisition, including as relevant here, clause 52.212-3, Offeror Representations and Certifications – Commercial Items. Agency Report (AR) exh. 1, Solicitation at 3. This clause requires firms to electronically complete the representations and certifications provisions on the System for Award Management (SAM) website or to complete the representations and certifications required by paragraphs (c) through (o) of clause 52.212-3 with their submissions in response to the solicitation. Among other things, this clause requires an offeror or bidder to certify that it is eligible for award under a small business set-aside acquisition. FAR § 52.212-3(c).

NAVSEA received bids from Nationwide and Better Direct by the December 3, 2014 deadline. Nationwide's bid quoted the lowest evaluated price. Nevertheless, the contracting officer concluded that the protester was not eligible for award because it had not certified that it was a small business concern. More specifically, the coversheet of Nationwide's FedBid submission identified Nationwide's socio-economic status as "Small Business," and Nationwide's FedBid submission also indicated that it had completed the representations and certifications required by FAR clause 52.212-3 in SAM. AR exh. 3, Nationwide's Bid at 1-2. Upon review of Nationwide's SAM information, the contracting officer found that Nationwide had certified that it was not a small business under the applicable NAICS code 334118. In fact, the contracting officer noted that Nationwide had not certified that it was small for any NAICS code. Contracting Officer's Statement at 4-5. Accordingly, the agency issued the purchase order to Better Direct and Nationwide filed this protest with our Office.

Nationwide objects to the agency's determination that it was not an eligible small business concern, and asserts that issuance of the order to a higher-priced bidder was unreasonable. In reviewing protests challenging an agency's evaluation, we examine the record to determine whether the agency's judgment was reasonable

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uses specific terminology to describe reverse auctions. A procurement conducted on behalf of a federal agency using the service is referred to as a "buy," and a participant in the reverse auction is said to submit a "bid." See FedBid FAQs (available online at [www.fedbid.com/buyers/getting-started/](http://www.fedbid.com/buyers/getting-started/)); FitNet Purchasing Alliance, B-310031, Sept. 21, 2007, 2007 CPD ¶ 181 at 2 n.1. Although the solicitation sought quotes, we refer to the submissions as bids for the sake of consistency and because the difference between a bid and a quote has no effect on the outcome of this decision.

and in accord with the terms of the solicitation. See Planned Sys. Int'l, Inc.; Technical Professional Servs., Inc., B-408685.7; B-408685.11, June 13, 2014, 2014 CPD ¶ 176 at 6.

Here, the record shows, and Nationwide does not contest, that Nationwide's SAM profile represented that Nationwide was not a small business under the applicable NAICS code and in fact, the SAM profile did not represent Nationwide was small under any NAICS code. AR exh. 2, Nationwide's SAM Profile at 11. While the protester argues that it is listed by Dun and Bradstreet as a small business and notes that it identified itself as a small business on the cover of its FedBid submission, see Protester's Comments at 1, these facts are not relevant where the solicitation specifically required firms to complete the applicable small business representations required by FAR clause 52.212-3 in SAM or to submit the required representations and certifications with the bid. In fact, Nationwide's FedBid submission indicated that it had completed the applicable representations and certifications in SAM. Since the record reflects that at the time the agency checked SAM, Nationwide had affirmatively represented that it was not a small business, we have no basis to conclude that the agency acted unreasonably when it eliminated Nationwide from the competition on the basis that it was not a small business concern.

Finally, Nationwide challenges the agency's use of FedBid, arguing that the reverse auction format was "inherently flawed." Protest at 2. The protester's post-award argument that the agency's use of FedBid was improper is untimely because it concerns an alleged solicitation impropriety which should have been raised before the deadline for the submission of bids. Bid Protest Regulations, 4 C.F.R. § 21.1(a)(1).

The protest is denied in part and dismissed in part.

Susan A. Poling  
General Counsel