

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

PREFERRED TEMPORARY SERVICES, INC.)
) CAB No. P-0695
 Under RFQ No. POCR-2004-Q-0020)

For the Protester: Barbara Posner, President, Preferred Temporary Services, Inc. For the Government: Howard Schwartz, Esq., and Talia Cohen, Esq., Assistant Attorneys General, District of Columbia.

Opinion by Administrative Judge Warren J. Nash, with Chief Administrative Judge Jonathan D. Zischkau and Administrative Judge Matthew S. Watson, concurring.

OPINION

(Lexis-Nexis Filing ID 4841443)

Preferred Temporary Services, Inc. (“PTSI”) protested the award of a task order for temporary staffing services under Request for Quotations (“RFQ”) POCR-2004-Q-0020. PTSI asserts that (1) the District included the wrong wage rates in the RFQ, and (2) the District failed to include evaluation factors in the RFQ necessary for determining the most qualified bidder or offeror. In its Agency Report, the District responds that (1) the contracting officer made telephone calls to the offerors to correct the wage rate mistake, and the final quotations of each bidder were based on the revised wage rates, and (2) the District was required to purchase the lowest priced services from the bidder or offeror already on the multiple award schedule. The protester did not file comments on the District’s Agency Report. We deny the protest.

BACKGROUND

On July 13, 2004, the Office of Contracting and Procurement (“OCP”) issued RFQ No. POCR-2004-Q-0020 to three vendors, including PTSI, listed on the District of Columbia Supply Schedule for Temporary Support Services. Multiple award supply schedules incorporate Federal Department of Labor wage rates and allow District agencies to issue task orders to vendors for services set forth on the schedule. The schedule was established by the District after competition conducted by OCP. The RFQ originally required immediate responses on the date of issue. After receiving initial quotations, the contracting officer realized that the RFQ incorporated an outdated wage rate. The contracting officer allowed the three vendors to resubmit quotes the next day using the correct wage rates. All three offerors resubmitted quotes using the correct wage rates. The contracting officer awarded the task order to Midtown Personnel, Inc. (“Midtown”), the schedule contractor that had submitted the lowest priced offer. PTSI misfiled its protest with the OCP commodity manager on July 19, 2004. The commodity manager should have immediately forwarded the protest to the Board. However, the commodity manager did not forward the protest to the Board until August 16, 2004. The Board considers the protest to be timely filed because we deem it to have been filed with us on the date it was originally filed with

the commodity manager. *See Fort Myer Construction Corp.*, CAB No. P-0452, July 23, 1996, 44 D.C. Reg. 6476, 6479; *Pro-Tech Builders, Inc.*, CAB No. P-0601, Dec. 14, 1999, 45 D.C. Reg. 1415.

DISCUSSION

We exercise jurisdiction pursuant to D.C. Code § 2-309.03(a)(1). The protester asserts that (1) the District included the wrong wage rates in the RFQ, and (2) the District failed to include evaluation factors in the RFQ necessary for determining the most qualified offeror. In answer to the first protest ground, the District responds that since all three offerors timely submitted quotations that used the same correct wage rates, there was no prejudice to any bidder. We agree. In answer to the second protest ground, the District responds that 27 DCMR § 2104.2 sets forth price as the only selection factor when the District orders products or services under a schedule, such as the District of Columbia Supply Schedule. That section states:

Except as provided in § 2104.3, when ordering from a multiple-award schedule, the contracting officer shall place orders with the schedule contractor offering the lowest delivered price available.

As the District correctly points out, an RFQ issued under an existing supply schedule requires the contracting officer to make an award to the lowest priced bidder. The supply schedule did not require the RFQ to contain criteria for a technical evaluation.

Accordingly, the Board denies the protest.

SO ORDERED.

DATE: December 27, 2004

/s/ Warren J. Nash

WARREN J. NASH
Administrative Judge

CONCURRING:

/s/ Jonathan D. Zischkau

JONATHAN D. ZISCHKAU
Chief Administrative Judge

/s/ Matthew S. Watson

MATTHEW S. WATSON
Administrative Judge