

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

FARBER SPECIALTY VEHICLES)	
7052 Americana Parkway)	CAB No. P-0721
Reynoldsburg, Ohio, 43068)	
)	
Under RFP No. POKT-2005-B-0065-LV)	

For the Protester, Farber Specialty Vehicles: Ken Farber, CEO, *pro se*. For the District Government: Howard S. Schwartz, Esq., and Talia S. Cohen, Esq., Assistant Attorneys General.

Opinion by Administrative Judge Warren J. Nash, with Chief Administrative Judge Jonathan D. Zischkau, concurring.

OPINION

Lexis-Nexis Filing ID 10737596

Protester Farber Specialty Vehicles (“Farber”) alleges in its protest that the District improperly awarded a contract for a mobile health unit to a bidder that submitted a bid with a higher price. The District in its Agency Report asserts that the District properly awarded the contract to Lifeline Shelter Systems, Inc. (“Lifeline”).

BACKGROUND

On June 2, 2005, District of Columbia Office of Contracting and Procurement (“OCP”), on behalf of the District of Columbia Department of Public Works (“DPW”) Fleet Management Administration (“FMA”) and the Department of Health (“DOH”), issued IFB POKT-2005-B-0065-LV for purchase of a Mobile Medical Clinic Unit (“mobile health unit”) to be delivered no more than 150 days after the date of award. (Agency Report (“AR”) Ex. 1). On June 6, 2005, OCP issued an amendment to the IFB that clarified the bid due date of July 6, 2005. Both Farber and Lifeline submitted nonresponsive bids. OCP then cancelled the solicitation and proceeded to complete the procurement process through negotiation. (AR Ex. 3). OCP revised the solicitation and reissued it to Farber and Lifeline. (AR Ex. 4). The reissued solicitation required offerors to insert the earliest delivery date that offerors could deliver to the District the mobile health unit rather than mandate a 150 day delivery date. (AR Ex. 4).

Revised solicitation section L.1.2 stated that the District intended to award the contract to the responsive and responsible bidder who had the lowest evaluated bid price taking into consideration the bidder’s proposed delivery date. (AR Ex. 4). On August 26, 2005, Farber and Lifeline submitted new bids. (AR Ex. 5). Farber offered to sell the mobile health unit to the District for \$282,000, and to deliver the unit to the District in 210 days. (AR Ex. 5). Lifeline offered to sell the mobile health unit to the District for \$298,880, and to deliver the unit to the District in 150 days. (AR Ex. 5). On November 9, 2005, the contracting officer awarded the contract to Lifeline after determining that DOH had an urgent need for the mobile health unit for the delivery of critical health

services to communities that do not have adequate or accessible health facilities. (AR Ex. 6). On November 15, 2005, the District awarded the contract to Lifeline. (AR Ex. 7). On November 15, 2005, DPW notified Farber of the award to Lifeline. (AR Ex. 7). On November 25, 2005, Farber filed its protest with the Board. On December 19, 2005, the District filed its determination and finding to proceed with award notwithstanding the protest. In the D&F to proceed, the District set forth its urgent need to proceed with contract award and performance as quickly as possible. The protester did not challenge the D&F.

DISCUSSION

Farber apparently asserts in its protest that the District should have awarded the contract to Farber since Farber's price was lower than Lifeline's price. The District responds that the District properly awarded the contract to Lifeline since the Contracting Officer reasonably determined that Lifeline's offer was in the best interest of the District when considering both the price and the proposed delivery date. We conclude that the District properly awarded the contract to Lifeline.

The District in its Agency Report sets forth the Board's standard of review regarding the contracting officer's evaluation decision. This Board examines the record to determine whether the decision was reasonable and in accord with the evaluation criteria set forth in the solicitation. *Health Right Inc., et al.*, CAB Nos. P-0507, P-0510, and P-0511, Oct. 15, 1997, 45 D.C. Reg. 8612, 8635. This Board will also examine the record to determine whether there were any violations of procurement laws or regulations. As we stated in *Health Right*: "Considering the totality of the record, evaluations must be reasonable and must bear a rational relationship to the announced criteria upon which competing offers are to be selected." 45 D.C. Reg. at 8635.

By affidavit dated December 15, 2005, the contracting officer stated that the District's health and safety needs outweighed Farber's lower price. (AR Ex. 8). The contracting officer determined that awarding the contract to Lifeline, who promised to deliver the mobile health unit to the District sixty days earlier than Farber, was in the best interest of the District. (AR Ex. 8). The District's D&F to proceed set forth the District's urgent need to award the contract. (D&F to Proceed dated December 19, 2005), and Farber did not challenge the D&F.

Accordingly, we determine that the contracting officer did not violate law or regulations in awarding the contract to Lifeline. We deny the protest.

SO ORDERED.

DATE: March 7, 2006

/s/ Warren J. Nash
WARREN J. NASH
Administrative Judge

CONCURRING:

/s/ Jonathan D. Zischkau
JONATHAN D. ZISCHKAU
Chief Administrative Judge