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**Comptroller General
of the United States**

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

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Decision

Matter of: Marine Industries NW

File: B-297207

Date: December 2, 2005

Carolyn A. Lake, Esq., Goodstein Law Group PLLC, for the protester.
Craig D. Haughtelin, Esq., Department of the Navy, for the agency.
Jennifer D. Westfall-McGrail, Esq., and Christine S. Melody, Esq., Office of the
General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably determined that protester's proposal failed to comply with a solicitation requirement for a brief description of offeror's quality assurance plan for certifying completed work where protester submitted brief description of plan that it was in the process of implementing, but failed to represent that the plan would be in place by the time of contract award or describe any plan that it would be replacing.

DECISION

Marine Industries NW protests the rejection of its proposal and the award of contracts to three other offerors under request for proposals (RFP) No. N00406-05-R-5037, issued by the Department of the Navy, Fleet and Industrial Supply Center, Puget Sound, for repair services for Navy vessels. The protester contends that the agency erroneously determined its proposal to be technically unacceptable and the proposals of the other three offerors to be technically acceptable.

We deny the protest.

The RFP, which was issued on March 17, 2005, contemplated the award of up to four fixed-price, indefinite-delivery/indefinite-quantity contracts, with the awardees then to compete for individual task orders. The solicitation provided for award to the offerors whose technically acceptable proposals represented the best value to the government, past performance and price considered. To be determined technically acceptable, offerors had to state that they could meet or exceed the specifications in the solicitation and any subsequent amendments; demonstrate that they had adequate docking facilities and services, located within the distance limits of Naval Base Kitsap--Bremerton Annex, as set forth elsewhere in the solicitation; and submit

a brief description of their company quality assurance (QA) plan for certifying completed work. RFP at 73.

Seven proposals were received by the April 18 closing date. The evaluators determined the protester's proposal to be technically unacceptable because it did not include the required information regarding the protester's QA plan. In this connection, the evaluators explained as follows:

[Marine Industries] stated that they are in the process of implementing a Quality Assurance Plan. The solicitation stated that the offeror shall submit a brief description of the type of their Quality Assurance Program and their process for ensuring proper certification of work/inspection. [Marine Industries'] statement that they are in the process of implementing a Quality Assurance Plan does not meet the requirements of the solicitation in that the process of implementation is a long process that could take years prior to fully putting the Quality Assurance Plan into operation. [Marine Industries'] statement doesn't indicate where they are in that process, what type of Quality Assurance process they would employ and whether any process will be in effect at the time of award. To ascertain this information would require the Contracting Officer go into discussions. Since the government has the option to award without discussion and there are three qualified offerors that are fully capable of meeting the requirements of the solicitation, the Contracting Officer does not feel that going into discussions is in the best interest of the Government. Given that [Marine Industries] does not meet all of the requirements of the solicitation they were determined to be technically unacceptable by the technical review board.

Business Clearance Memorandum at 5. The evaluators determined five of the remaining six proposals to be technically acceptable and selected three of the five for award. On July 8, the agency awarded contracts to Pacific Ship Repair and Fabrication, Inc., Puglia Engineering Inc., and Propulsion Controls Engineering. The protester was debriefed on July 20 and filed an agency-level protest on July 25. The Navy denied the protest on September 2, and Marine Industries protested to our Office on September 9.

First, the protester takes issue with the evaluators' determination that its proposal was technically unacceptable for failing to include a description of the company's QA plan. Marine Industries notes that its proposal responded to the solicitation requirement for a brief description of its QA plan by stating as follows: "Marine Industries is in the process of implementing a quality management system based on the ISO [International Standards Organization] 9001-2000." The protester contends that since the ISO updates its standards periodically and 9001-2000 is a current

standard, the evaluators should have understood that it was upgrading an existing QA plan.

We disagree. Nothing in Marine Industries' proposal establishes that a company can implement a QA system based on ISO 9001-2000 only as an upgrade to an existing QA system. Further, Marine Industries has provided no evidence that implementation of a plan based on ISO 9001-2000 necessarily implies the existence of a precursor plan, such that the agency should have evaluated the proposal based on such an assumption. Accordingly, because the protester failed to represent that its new QA plan would be in place by the time of contract award and failed to furnish any description of an already implemented QA plan, we think that the evaluators reasonably determined that it had failed to comply with the RFP requirement for a description of its company QA plan for certifying completed work.

The protester further argues that the past performance information that it submitted with its proposal furnished evidence of its adherence to quality standards. The protester's argument is misdirected since the issue is not whether Marine Industries has previously adhered to quality standards; the issue is whether it furnished a description of its QA plan. The fact that the protester has performed work at an acceptable level of quality in the past does not establish the existence (or the content) of a company QA plan.

Next, the protester argues that the proposals of each of the awardees should have been determined technically unacceptable because none of the three offered dry dock facilities meeting the size requirements and/or located within the distance limits specified in the RFP.

The RFP required that the awardees have cranes and/or dry docking facilities capable of hauling out or dry docking vessels up to 261' x 48' x 2,700 tons (displacement). The solicitation included a chart containing examples of the types of craft that might require servicing, the largest two of which were the above dimensions.

One awardee, Pacific Ship Repair and Fabrication, Inc., proposed [deleted] as one of its servicing facilities. Pacific Ship Repair included in its proposal information regarding the size of the [deleted] dry docks. As noted by the agency, the data clearly shows that [deleted] that meet the size and capacity requirements, For example, [deleted] long and [deleted] wide, with a capacity of [deleted] tons. Accordingly, the record does not support the protester's allegation that Pacific Ship Repair failed to propose adequate facilities.

[Deleted] Propulsion Controls Engineering and Puglia Engineering, Inc. [deleted] servicing facilities. The Propulsion Controls proposal stated that the [deleted] was a "Full Service Shipyard capable of dry-docking all of the vessels listed [in the above-mentioned chart]," while the Puglia proposal stated that the [deleted] included

[deleted] servicing vessels up to [deleted] in length in excess of [deleted].” We think that these statements were adequate to demonstrate compliance with the RFP’s size requirements.¹

We also find the protester’s argument that the facilities proposed by the awardees are not located within the distance limits specified by the RFP to be without merit. The solicitation defined the distance limits as follows:

THE CONTRACTOR’S FACILITY WHICH WILL BE UTILIZED TO REPAIR GOVERNMENT ASSETS MUST BE LOCATED NO FURTHER THAN 120 ROAD MILES FROM NAVAL BASE KITSAP--BREMERTON ANNEX, BREMERTON WA 98314. Except for the use of the Bremerton to Seattle ferry, Kingston-Edmonds ferry this distance will not be calculated as air miles or over water miles. If the trip includes use of the Bremerton to Seattle ferry or Kingston to Edmonds ferry, 60 miles will be added to the trip calculation to account for the time and expense of ferry use.

RFP at 28. While the protester has submitted calculations purporting to show that two of the shipyards identified by the awardees in their proposals are more than 120 road miles from the Bremerton Annex, the calculations are clearly erroneous since they include mileage for ferry use despite the fact that the travel routes do not require ferry transport.²

The protest is denied.

Anthony H. Gamboa
General Counsel

¹ We recognize that Puglia’s proposal did not specifically address the width requirement, but we think that the evaluators could reasonably have concluded that a dry dock capable of accommodating a [deleted] ton vessel would be capable of accommodating a vessel 48 feet wide.

² Since Bremerton is located across Puget Sound from Seattle, one can travel between Bremerton and Seattle (where the shipyards in question are located) by driving around the southern edge of Puget Sound or by taking the ferry across Puget Sound. As noted above, the RFP provided that in the event that the trip included use of the ferry, 60 miles would be added to the trip calculation to account for the time and expense of ferry use. The protester has calculated the travel distances by adding 60 miles to the around-the-sound driving distances.