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**Comptroller General
of the United States**

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

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The decision issued on the date below was subject to a GAO Protective Order. No party requested redactions; we are therefore releasing the decision in its entirety.

Decision

Matter of: Global Solutions Network, Inc.

File: B-298682.2

Date: December 10, 2007

Gerald H. Werfel, Esq., Pompan, Murray & Werfel, P.L.C., for the protester.
Kristen E. Ittig, Esq., Arnold & Porter LLP, for Accurate Conceptions, LLC, an intervenor.

Lt. Col. David P. Harney, and Peter F. Pontzer, Esq., Department of the Army, for the agency.

Paul N. Wengert, Esq., and Ralph O. White, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that a solicitation does not accurately reflect the agency's needs is denied where the agency disagrees with the protester's contention, and, while acknowledging certain growth in the agency's workload, explains that the growth will be handled by using agency employees to perform some of the additional work, and by increasing reliance on automation.

DECISION

Global Solutions Network, Inc. (GSN), a small business, protests the conduct of a procurement by the Department of the Army under request for proposals (RFP) No. W91QV1-06-R-0033 for task order management and financial support for the "HRsolutions" program office. GSN argues that the Army's needs have changed significantly since the submission of proposals, and therefore the RFP, and the proposals submitted, no longer accurately reflect the Army's needs.¹

¹ GSN filed this protest on September 24, 2007, to challenge an award to Accurate Conceptions. Shortly after the protest was filed, the Army initiated a reevaluation of the proposals, which rendered the challenge to the evaluation of proposals and award academic; we therefore dismissed those grounds of protest. The remaining contention—that the agency's needs have changed since the RFP was first issued—was not rendered academic as a result of the corrective action. Accordingly, this decision addresses the remaining issue in GSN's protest.

We deny the protest.

The Army issued the RFP on July 29, 2006, as a set-aside for historically underutilized business zone (HUBZone) small businesses, seeking fixed-price proposals to “provide on a daily basis all personnel, equipment, tools, materials, supervision, and other items and non-personal services necessary to perform Task Order Management and Financial support” to the HRSolutions program office. RFP at 3. Prices were to be submitted for a 1-year base period and four 1-year option periods. The RFP also provides for the reimbursement of other direct costs (described as including “supplies not otherwise provided”), and travel (described as covering “long distance travel for approved business meetings, conference support, and marketing calls”), up to specified annual ceiling amounts. RFP at 5-6.

The contracting officer explains that the HRSolutions program office is responsible for managing 12 high-dollar-value indefinite-delivery/indefinite-quantity contracts that support Army human resources functions in the areas of personnel services, studies and analyses, recruiting and retention, and administrative functions. The contractor will be responsible for following up on marketing leads and inquiries, assisting in the preparation of performance work statements and independent government cost estimates, preparing funding documents, conducting task order competitions, and recommending selection among vendors. The contractor will also provide other routine business planning, financial management, and related business support. CO Statement at 1.

GSN explains that since offerors were to provide fixed-price proposals, the workload of the HRSolutions program office would affect the prices offered. The RFP provided offerors a government estimate, showing eight full time equivalent employees, divided among five labor categories, and an annual workload of 15,360 hours. RFP at 83. However, the RFP also indicated elsewhere that the level and mix of staffing was “expected to change from time to time to reflect changing goals and the customer base,” and, at another point, that “[s]ince the program is entering a period of rapid growth, past metrics will probably not be a reflection of the future.” RFP at 47, 58. The performance work statement further specified that the contractor would be evaluated on its success in “develop[ing] new business for the program of no less than 10 percent a year.” RFP at 62.

GSN argues that since submission of its final proposal revision dated May 7, 2007, the Army has developed revised projections showing that the HRSolutions program office will handle an even larger workload than indicated by the RFP, and thus the RFP no longer accurately represents the Army’s needs. GSN bases its argument on projections in an update to the official HRSolutions business plan, dated July 31. Protest at 12-14.

The Army responds that it has carefully considered the workload, and concludes that the RFP continues to reflect the Army’s needs. With respect to the increased

workload projections (which the Army emphasizes are simply estimates), the Army responds that it is taking actions to “accommodate this growth without increasing our reliance on contractors,” including increasing Army staffing such that agency employees perform some of the work, and automating certain functions performed by the protester under its incumbent contract. Agency Report, Tab 3, Declaration of Army Program Manager, at 3-4.

Where an agency’s requirements change materially after a solicitation has been issued, it must issue an amendment notifying offerors of the change and affording them an opportunity to respond. Federal Acquisition Regulation § 15.206(a); Northrop Grumman Info. Tech., Inc., et al., B-295526 et al., Mar. 16, 2005, 2005 CPD ¶ 45 at 13; Symetrics Indus., Inc., B-274246.3 et al., Aug. 20, 1997, 97-2 CPD ¶ 59 at 6. This rule applies even after the submission of final proposal revisions, up until the time of award. Northrop Grumman Info. Tech., Inc. et al., *supra*; Digital Techs., Inc., B-291657.3, Nov. 18, 2004, 2004 CPD ¶ 235 at 3; NV Servs., B-284119.2, Feb. 25, 2000, 2000 CPD ¶ 64 at 17. Amending the solicitation provides offerors an opportunity to submit revised proposals on a common basis that reflects the agency’s actual needs. Multimax, Inc., et al. B-298249.6, et al., Oct. 24, 2006, 2006 CPD ¶ 165 at 6.

Here, in response to the protester’s assertion that the RFP no longer reflects the Army’s workload, the program manager reviewed the issue and concluded that the RFP continues to accurately reflect the Army’s need for contractor support in this area. GSN has not shown a basis to question the Army’s judgment in this respect. While GSN disputes the program manager’s assertion that agency employees will be used to address aspects of the workload, GSN’s contention is, essentially, that government staff recently added to the HRSolutions program office (where GSN performs services under its incumbent contract) have not been used for this purpose in the past. Declaration of GSN Contract Manager at 2. The agency’s actions in administering GSN’s incumbent contract does not bind the Army’s future actions, and does not establish that the agency will fail to address the upcoming contract in the manner explained in response to this protest. In short, the Army has provided a reasonable basis for its conclusion that the RFP continues to reflect its needs.

The protest is denied.

Gary L. Kepplinger
General Counsel