

March 28, 1997

P.S. Protest No. 97-02

TRANS WORLD PRODUCTS CO., INC.

Solicitation No. 363199-96-A-0308

DIGEST

Protest against award for food vending services on grounds that awardee did not offer the best value is denied; protester's contention that its price was lower failed to consider prices for all vending sites.

Decision

Trans World Products Co., Inc., (Trans World) protests the award of a food vending contract under Solicitation No. 363199-96-A-0308 to Aramark Corp.

The Purchasing and Materials Service Center, Greensboro, NC, issued Solicitation -0308 on November 6, 1996, seeking central lunchroom and satellite machine vending services at eighteen Postal Service locations in the Washington, DC, area. The vending sites were identified in the solicitation as Location #'s: 01, 01A, 01B, and 02 through 17. Locations 01 and 01B are central lunchrooms; the remaining locations are satellite vending areas. The solicitation identified the food items (for example, canned soft drinks or juices, chips, etc.) to be provided at each location. Offerors were to list the selling price for each food item, and, for items vended at the satellite vending areas, the percent of commission to the Postal Service per machine. They were not required to calculate the total offer.

Section M.1 stated that the Postal Service intended to award a contract "to the responsible offeror whose proposal offers the best value to the Postal Service, considering price, price-related factors, and/or other evaluation factors specified elsewhere in this solicitation." Section M.2 describes the basis for evaluation of offers with respect to satellite vending, in pertinent part, as follows:

In determining which offer is the most advantageous to the Postal Service, the following steps will be taken:

a. The unit price for each type of machine will be extended by the estimated vends to reflect estimated annual sales.

* * *

c. The commission(s) offered will be computed to reflect the estimated annual dollar value by multiplying estimated annual sales by percent commission offered for each type of machine.

* * *

f. After making the computations above, the following formula will be used to determine the offer that is most advantageous to the Postal Service:

Sum of estimated sales in (a) above times 80%.

Less: Sum of commission in (c) above times 20%.

Equals: Score for offer evaluation purposes.

The lowest dollar figure will be considered to be most advantageous to the Postal Service.

Section M.3 describes the basis for evaluation of offers with respect to central lunch-rooms, in pertinent part, as follows:

In determining which offer is the most advantageous to the Postal Service, the following steps will be taken:

a. The price of items to be vended are to be competitive with like or similar items vended within the geographic area of the postal facility being serviced. Award will be made to the that responsible offeror whose total offer (ITEM PRICE IN RELATION TO PORTION SIZE) is most advantageous to the Postal Service....

b. The price per ounce is extended to reflect the largest size offered, and is then extended by estimated vends to reflect sales....

NOTE: MULTI-COMMODITY MACHINES VENDING ITEMS [ARE] SUCH [THINGS] AS CANDY, SNACKS AND PASTRY.

Itemized sales have been provided for the multi-commodity machines referenced in this solicitation, therefore it is required that offerors list the sizes and prices on an item by item basis.

THE TOTAL LOWEST DOLLAR AMOUNT IS CONSIDERED TO BE THE MOST ADVANTAGEOUS TO THE POSTAL SERVICE.

Using a Microsoft Excel spreadsheet, the contracting officer computed the estimated, monthly sales for each offeror from the pricing information that they provided for the in accordance with the above evaluation scheme. In that calculation, for the satellite locations, the estimated commission to the Postal Service was determined using the commission percentage specified by the offeror and 20% of the sum of the commissions was subtracted from 80% of the sum of the estimated sales to obtain a monthly total for each item. The monthly totals for items to be vended at the two central lunchroom were also calculated, but without consideration of commissions.

Consistent with the final sentences of provisions M.2 and M.3, the lowest, combined, total dollar figure for all locations was to be considered the most advantageous to the Postal Service. In his initial evaluation, the contracting officer determined that Aramark's proposal yielded the lowest figure of \$434,189.06 for the 36-month contract term, and that Trans World's proposal resulted in an offer of \$459,374.86. The contracting officer awarded the contract to Aramark on January 6, 1997, and on that day mailed letters to all the offerors advising them of his decision. On January 7, the President of Trans World called to inquire about the status of the contract award. He was told that Aramark had received the contract and he was given the evaluated totals for Trans World and Aramark. He stated that according to his own computation, Trans World's evaluated total was only \$430,664.05 and thus was lower than Aramark's figure.

In its protest, Trans World repeated the claim that its offer, calculated "using USPS guideline Section M of the proposal," was \$430,664.05 and submitted a copy of its own evaluation worksheet, which, indeed, showed that figure. The protest was accompanied by the page of the solicitation which included the first part of provision M.2.

After receiving and reviewing the protest and the protester's evaluation worksheet, the contracting officer reviewed his own evaluation worksheet and found and corrected an error. As corrected, the evaluated totals of all the offers remained in the same order. (Aramark's corrected total became \$437,773.35; TRANS World's became \$466,470.46.

In his report on the protest, the contracting officer pointed out that Trans World arrived at its lower figure because it failed to include on its evaluation worksheet prices for the items to be sold at the two lunchroom locations, 01 and 01B.

In support of its allegation that the contracting officer's evaluation was in error, the protester submitted a rebuttal letter to this office dated March 11, in which it contends 1) that the unit prices were extended only by the estimated monthly sales and not estimated annual sales as required by solicitation Section M.2 a.; 2) that in computing commissions, contrary to Section M.2 c, the monthly sales were used instead of the annual sales, which, protester said, will yield a different number; 3) that contrary to the provision of Section M.2 e., the machines in the lunchroom were not required to yield a commission; and, 4) that for prices of items given in a range, the lowest price was taken instead of the average price.

Discussion

The solicitation required that offerors submit prices for each listed item for all the locations identified in Section A of the Schedule. Additionally, the offerors were required to specify the percentage of commissions they were offering to the Postal Service for all locations except the two lunchrooms (Location #'s 01 and 01B). The contracting officer entered this pricing and commission data into Microsoft Excel to generate a worksheet showing the evaluated totals for all of the offers submitted. An examination of the Postal Service's final worksheet shows that Aramark and Trans World had provided pricing and commission data for all the required locations.

In reviewing the worksheet that Trans World submitted, we find, as did the contracting officer, that Trans World made an error. It had neglected to include its pricing data for the lunchroom locations, 01 and 01B, in its worksheet calculations. This oversight made it appear to Trans World that it had submitted the lowest offer.

In its rebuttal letter of March 11, the protester raises various additional contentions concerning the evaluation of the offers. The timeliness of new issues raised in the course of a protest is measured from their receipt. *Cordova Air Service, Inc.*, P.S. Protest No. 92-86, January 22, 1993. Under this standard, these new contentions are untimely; they were not contained in the initial protest, and have been presented more than ten days after the basis for the contentions was known and, in any event, more than fifteen days after the award of the contract in question.¹ Purchasing Manual 3.6.4.d.

In any event, the worksheet does not reflect the errors newly claimed by the protester. As discussed above, prices (less commissions, where appropriate) were calculated for each item, and totaled to a monthly figure per location. While this figure was extended to arrive at a 3-year estimate, instead of the one-year estimate referenced in section M., that variation did not affect the relative standing of the offers. There is no basis for

¹ The protester was provided the evaluations with the contracting officer's statement of January 30,

protester's suggestion that there is an incongruity between section M.2 c.'s requirement that that all satellite vending machines generate a commission to the Postal Service, and Schedule A's provision that commissions do not apply to the two central lunchrooms.² Lastly, the protester is in error in stating that "[f]or prices of items given in a range, the lowest price was taken instead of the average price." An examination of the contracting officer's corrected worksheet shows that for those items for which a range of prices was given, the average price was used in making the evaluation.

We find no evidence that the contracting officer erred in his determination that Aramark's proposal was the most satisfactory offer consistent with the solicitation's evaluation scheme.

The protest is denied.

William J. Jones
Senior Counsel
Contract Protests and Policies

² The schedules for items and prices for locations 01 and 01B each contained a prominent note which reads "COMMISSION DOES NOT APPLY TO CENTRAL LUNCHROOM." Furthermore, Section M.3 makes no reference to commissions in the evaluation of offers for food services at central lunchrooms.