Protest of	) Date: September 15, 1989
	)
Noe & Luebbert Const. Co., Inc.	)
	)
Solicitation No. 199986-89-A-0024	) P. S. Protest No. 89-54

DECISION

Noe and Luebbert Construction Co., Inc. (N & L), protests the award of a term construction contract for repairs and alterations in the Kansas City, MO, metropolitan and surrounding area to the Rowe Corporation under Solicitation No. 199986-89-A-0024.

The Kansas City Facilities Service Office issued Solicitation No. 199986-89-A-0024 on April 14, 1989. Award was to be based on a combination of price and technical factors as stated in the solicitation, including construction experience, project staffing, company organization, financial capability and bonding capacity. Following price and technical evaluations, the contract was awarded June 30 to the Rowe Corporation, which had been evaluated higher than N & L.

By letter of July 5 to the contracting officer, N & L protested the award of the contract, stating that the amount of its offer was 3.7% lower than Rowe's. N & L further stated that it had submitted a qualified bid bond and that it had a great deal of experience.

In his report, the contracting officer stated that N & L's evaluation, based on considerations of both technical and price factors, was not as high as that of Rowe.

In its comments of August 2, and its bid protest conference, held telephonically on August 10, N & L further stated that it recommended that the Postal Service go "back to the old system of open bidding." The protester further stated that the Postal Service's new procurement method could lead to favoritism in award of contracts.

With regard to the protester's contention that as the offeror with the lowest price, it should have received award, Section M.2 of the solicitation states:

> Award will be made to the responsible offeror who submits the best combination of Technical Proposal, Business Proposal...and other factors considered. Cost/price will be considered in the award decision, although the award may not necessarily be made to that offeror submitting the lowest price.

Use of factors other than price in determining the proposal most advantageous to the Postal Service is permitted by the Postal Service Procurement Manual (4.1.5 b.), and the contracting officer was within the bounds of his discretion in awarding the contract to a firm that did not submit the lowest price. To the extent that the protester contends it was qualified for award, we must adopt the contracting officer's position in this instance that another firm was better qualified absent sufficient evidence to overcome the presumption of correctness which attaches to the contracting officer's action. Cohlmia Airline, Inc., P.S. Protest No. 87-118, April 13, 1988. In this case, except for alleging that its price was lower than Rowe Corporation's, and that it is an experienced contractor, N & L does not challenge the contracting officer's conclusion that Rowe's offer was most advantageous to the Postal Service.

Contentions similar to N & L's regarding the Postal Service's procurement method were made in another protest recently decided by this office. In BWN Contracting Co., Inc., P.S. Protest Nos. 89-38, 89-50 & 89-57, August 31, 1989, the protester stated that the Postal Service's procurement procedures could result in favoritism. That decision stated, in part:

> Although the protester disfavors the methods chosen by the Postal Service for its procurements, the bid protest procedure is not an appropriate forum to challenge them. The authority of this office to consider protests is limited to protests of specific solicitations and awards.

The protester did not state that favoritism was a factor in award of this contract, but instead generally alleged that the Postal Service's procurement procedures could lead to favoritism. It is not within the authority of this office to change these regulations to a method which the protester prefers. Id.

The protest is denied.

[NormanMenegat for:]
William J. Jones
Associate General Counsel
Office of Contracts and Property Law

[checked against original JLS 5/24/93]