



**Comptroller General  
of the United States**

Washington, D.C. 20548

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# Decision

**Matter of:** M3 Corporation

**File:** B-278906

**Date:** April 1, 1998

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Steven W. McKinzie for the protester.

Richard V. Gonzales, Esq., United States Coast Guard, for the agency.

Christine Davis, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. In a procurement for in-house training courses on simplified acquisition procedures, the agency properly downgraded the sample training materials submitted by the protester because the materials did not evidence that the protester understood simplified acquisition procedures or the requirements stated in the solicitation.
2. Agency was not required to conduct discussions concerning the protester's negative past performance references under an acquisition conducted under simplified acquisition procedures.

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## DECISION

M3 Corporation protests the evaluation of its quotation and the award of a purchase order to Northwest Procurement Institute, Inc. (NPI) under request for quotations (RFQ) No. DTCCG8-98-Q-0328, issued by the Department of Transportation, United States Coast Guard, for in-house training courses on simplified acquisition procedures, to be taught at Coast Guard facilities in Petaluma, California.

We deny the protest.

The Coast Guard conducted this procurement pursuant to the simplified acquisition procedures of Federal Acquisition Regulation (FAR) part 13. The RFQ, issued on December 1, 1997, solicited quotations for an instructor and instructional materials for a basic and an advanced course on simplified acquisition procedures. RFQ Simplified Acquisition Procedures (basic course) Statement of Work (SOW), Advanced Simplified Acquisition Procedures (advanced course) SOW. Both courses were to include 40 hours of instruction over a 5-day period, the basic course to be taught from January 5 through January 9, 1998, and the advanced course to be taught from January 12 through January 16. Basic course SOW §§ 1(a), (c), Advanced course SOW §§ 1(a), (c). The RFQ identified with specificity the topics

to be covered in each course, e.g., a discussion of FAR part 13 revisions and a discussion of the various simplified acquisition techniques, Basic course SOW §§ 1(f), (k), and simplified acquisitions subject to the Service Contract Act and Davis-Bacon Act, Advanced course SOW §§ 1(h), (i).

The RFQ award criteria provided for award based on a cost/technical tradeoff, stated that technical factors were significantly more important than price, and listed four technical factors in descending order of importance: past performance, qualifications of instructors, sample curricula, and sample text. Under the sample curricula and sample text factors, quoters were to submit copies of training materials for evaluation purposes. Specifically, the sample curricula factor provided for an evaluation of a "typical curriculum for both an advanced and basic simplified acquisition training course," and the sample text factor provided for an evaluation of a "sample text, covering use of credit cards, which reflects Coast Guard or other agency specific requirements." The RFQ also stated that the government's knowledge of, and previous experience with, a quoter would be considered in the technical evaluation.

The Coast Guard received quotes from NPI, M3, and two other firms. M3's quote of \$7,800 was low, and NPI's quote of \$9,582 was next low.

The agency found that M3's sample text and sample curricula did not evidence that the protester understood the RFQ requirements. The agency remarked that M3's sample text was copied verbatim from the Coast Guard's Small Purchase Handbook, and that M3's sample curricula provided for instruction in areas irrelevant to the SOW or unrelated to simplified acquisition procedures, such as an introduction to publicizing requests for proposals. The agency concluded that M3 either "didn't read [the] Statement of Work, or simply used a [curriculum] from an existing course without any thought to tailoring it to [the Coast Guard's] specific requirements."

In addition, the agency was aware of past performance problems on the part of M3's president and proposed instructor, who taught the basic and advanced simplified acquisition course for the Coast Guard during his tenure with another firm. The Coast Guard retained student evaluation sheets for a March 1996 course taught by M3's president, in which the students rated M3's president a "poor" or "unsatisfactory" instructor and described the course as "poor" and of "little" benefit to them.<sup>1</sup> For example, one student commented that he "would not sign up for

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<sup>1</sup>The Coast Guard has not retained the student evaluations from other courses taught by M3's president. However, the technical evaluator in this case, who administered other contracts where M3's president was an instructor, stated in a declaration that she remembered many negative students evaluations regarding other courses taught by M3's president, which were discussed with the contractor in an effort to improve performance.

another course [with] this instructor," who was prone to a "misuse of terms" and was unable to "find references for statements . . . when [statement] was wrong or challenged by others." Another student commented that "[s]ubject knowledge was weak" on the part of M3's president and that the course "was dramatically inferior to the basic course [the student] took from a different contractor."

In contrast, NPI recently taught the basic and advanced simplified acquisition course for the Coast Guard, and its quote included comprehensive textbooks for the solicited courses, which detailed the use of credit cards and numerous other topics identified in the SOW. NPI's sample materials earned "good" and "excellent" ratings, and its past performance and instructors' qualifications also earned "good" ratings.

The agency concluded that NPI's quote was so technically superior to M3's as to be worth the added price. On December 16, the Coast Guard issued a purchase order to NPI. This protest followed.

M3 protests the evaluation of its quotation. M3 argues that the sample curricula factor did not require M3 to tailor its curricula to the SOW requirements and that the sample text factor did not preclude M3 from using a chapter from the Coast Guard's Small Purchase Handbook as its submission. The protester thus argues that the agency could not downgrade its sample materials for any informational weaknesses vis-a-vis the SOW requirements.

When using simplified acquisition procedures, an agency must conduct the procurement consistent with a concern for fair and equitable competition, and must evaluate quotations in accordance with the terms of the solicitation. Nunez & Assocs., B-258666, Feb. 10, 1995, 95-1 CPD ¶ 62 at 2. In reviewing protests against an allegedly improper evaluation, we will examine the record to determine whether the agency met this standard and reasonably exercised its discretion. Id.; Northwest Management, Inc., B-277503, Oct. 20, 1997, 97-2 CPD ¶ 108 at 4.

We find that the agency, reasonably and consistent with the RFQ, evaluated the many informational shortcomings in M3's sample information relative to the SOW. In this regard, the RFQ required the firm selected to teach the training course to deliver all training materials and textbooks under the purchase order. Basic course SOW § 1(b), Advanced course SOW § 1(b). Although the RFQ did not require quoters to submit the actual training materials and textbooks to be delivered under the contract, quoters were required to submit sample curricula and texts for evaluation purposes. This request put quoters on notice that the copies of materials submitted with their quotes could be evaluated for the extent to which they represented the actual materials to be delivered and reflected the quoter's understanding of the SOW requirements, and the agency could reasonably downgrade a quote that did not so demonstrate its understanding. See Environmental Training and Consulting Int'l, Inc., B-278185, Dec. 5, 1997, 97-2 CPD ¶ 158 at 2-3.

In addition, M3's quote suggested that its submitted sample information was indicative of the actual training materials the protester intended to deliver under the contract, in that M3's submissions were titled "U.S. Coast Guard Simplified Acquisition Procedures Course, Basic Curriculum" and "United States Coast Guard Simplified Acquisition Procedures Course, Advanced Curriculum." These curricula, which purported to outline the content of M3's proposed courses, provided for instruction in several areas that were either unrelated to simplified acquisition procedures or inapplicable to the SOW requirements. This reasonably caused the agency to doubt the accuracy and relevance of the content of M3's proposed courses. Similarly, M3's submission of a chapter from the Coast Guard's Small Purchase Handbook as its sample text reasonably inspired little confidence in the protester's independent knowledge of the underlying simplified acquisition technique and its ability to convey appropriate information through lecture and course materials.

We therefore find reasonable the agency's conclusion that the protester's sample training materials were weak, especially in comparison to the awardee's sample training materials, which were comprehensive, accurate, relevant to the RFQ requirements, and representative of the actual training materials to be delivered under the contract. See id. at 3; American Artisan Prods., Inc., B-278450, Jan. 30, 1998, 98-1 CPD ¶ 37 at 4.

The protester also objects to the evaluation of the past performance of M3's president and proposed instructor. The protester concedes that the Coast Guard courses taught by its president were criticized by former students, but claims that the agency should have disregarded the negative comments because they related to deficiencies in the textbook used by its president during his tenure with another firm. Specifically, the protester argues that the textbook used by its president in his previous classes "was not up to date and that students did comment negatively on the text not being current but that the course instruction was exceptionally good."

We find that the agency reasonably considered these negative student comments in evaluating the protester's past performance and the qualifications of its instructor. The protester is incorrect that the student evaluations were limited to problems in the textbook. Based upon our review of the documented student comments, it is apparent that students found M3's president an unsatisfactory instructor, who could not compensate for weaknesses in the text owing to what students found to be his limited knowledge of the subject.

M3 finally argues that the agency had a duty to conduct discussions with M3 regarding the negative past performance information. In making this argument, the protester has confused the requirements applicable to negotiated procurements with those applicable to procurements using simplified acquisition procedures. While an agency is required to discuss negative past performance information with offerors whose proposals are included in the competitive range in a negotiated procurement,

FAR § 15.610(c)(6) (June 1997), there is no requirement for establishing a competitive range or conducting discussions in procurements conducted under simplified acquisition procedures. FAR § 13.106-2(b)(1).

The protest is denied.

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