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**Comptroller General
of the United States**

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

Decision

Matter of: International Code Council

File: B-409146

Date: January 8, 2014

Matt Ward, Esq., Ward Washington Law Firm, for the protester.
Jonathan English, Esq., and Julie Cannatti, Esq., Department of Housing and Urban Development, for the agency.
Paula J. Haurilesko, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably rejected quotation as late where an amendment changed the date but not the time for submission of quotations or proposals, and the protester submitted its quotation after that time.

DECISION

The International Code Council (ICC), of Washington, DC, protests the rejection of its quotation as late by the Department of Housing and Urban Development (HUD) under request for quotations (RFQ) No. DU100H-13-Q-0003 for services supporting the Manufactured Housing Consensus Committee.¹ ICC contends that its quotation was not late.

We deny the protest.

BACKGROUND

HUD issued the RFQ under the streamlined commercial acquisition procedures of Federal Acquisition Regulation (FAR) subpart 12.6 for contractor support services for the Manufactured Housing Consensus Committee for a base year and four option years. Vendors were informed that an award would be made on a best-value

¹ The Manufactured Housing Consensus Committee is a statutory Federal Advisory Committee within HUD.

basis, considering technical capability, management work plan/key personnel, past performance, and price. RFQ at 20-22.

The RFQ stated that quotations were due by 3 p.m., eastern standard time, on July 23, 2013. Id. at 17. The RFQ also incorporated by reference FAR clause 52.212-1, Instructions to Offerors--Commercial Items, which in pertinent part informed vendors that quotations received at the place designated in the solicitation after the exact time specified for receipt would not be considered. FAR clause 52.212-1(f).

The RFQ was amended on July 16 as follows: "The purpose of this amendment is to extend the solicitation response date from July 23, 2013 to July 26, 2013." RFQ amend. 1, at 1. On July 18, the contract specialist emailed ICC a hyperlink to the amendment, which was posted on the Federal Business Opportunities web site, and informed ICC that "The closing date is July 26, 2013 at 1500 hours." Agency Report (AR), Tab 4, HUD email to ICC.

On July 26 at 1:50 p.m., ICC emailed the contract specialist, providing past performance evaluation surveys and stating that the "Rest of proposal will be hand delivered to HUD per our discussion this morning by 3PM today." AR, Tab 6, ICC email to HUD.

HUD received ICC's quotation at 3:28 p.m. on July 26. Protest, attach. 3, Acknowledgment of Receipt. HUD rejected ICC's quotation as late, and ICC filed a protest with HUD. Following the denial of ICC's agency-level protest, ICC protested to our Office.

DISCUSSION

ICC contends that its quotation was timely submitted, arguing that amendment 1 of the RFQ effectively changed the time for receipt of quotations to 4:30 p.m., eastern time, because the amendment extending the date for solicitation responses did not state a time for receipt of quotations. In this regard, ICC states that FAR clause 52.212-1(f)(1) provides that where no time for receipt of quotations is stated in the solicitation, the time for receipt of quotations is 4:30 p.m., local time. ICC also contends that, in any event, HUD waived the 3 p.m. time for receipt of quotations because the agency's contract specialist informed ICC that HUD would accept ICC's quotation if received at any time on July 26.

Generally, late quotations may be considered up to the time of issuance of the order, because an RFQ, unlike a request for proposals (or an invitation for bids), does not seek offers that can be accepted by the government to form a contract. Rather, the government's purchase order represents an offer that the vendor may accept through performance or by a formal acceptance document. See M.Braun, Inc., B-298935.2, May 21, 2007, 2007 CPD ¶ 96 at 3. Where, as here however, an

RFQ contains a late quotations clause--such as, FAR clause 52.212-1(f)--the agency's consideration of late quotations is limited. Id.

ICC does not contend that the RFQ allowed HUD to consider late quotations. Rather, ICC's complaint reflects its belief that, because the agency's extension of the closing date did not restate the time for receipt of quotations, the solicitation in effect did not state a time for submission of quotations. There is no merit to this argument. We have previously found that where an amendment changes only the date for receipt of quotations or proposals, the time established for receipt is unchanged. See Sandler-Innocenzi, B-218322, 85-1 CPD ¶ 353 at 2; Pacific Coast Welding & Machine, Inc., B-205874, Jan. 15, 1982, 82-1 CPD ¶ 36 at 3-4. Here, the RFQ as issued established the hour and date for receipt of quotations as 3 p.m., eastern time, on July 23, 2013. Although amendment 1 changed the date for receipt of quotations to July 26, it did not change the time. Accordingly, the amended time for receipt of quotations was 3 p.m., eastern time, July 26, and ICC's quotation that was received after that time was late.²

We also find no merit to ICC's contention that HUD waived the date and time for receipt of quotations because the contract specialist allegedly agreed to accept ICC's quotation. We have repeatedly held that oral advice that would have the effect of altering the written terms of a solicitation, does not operate to amend a solicitation or otherwise legally bind the agency. See e.g., Noble Supply & Logistics, B-404731, Mar. 4, 2011, 2011 CPD ¶ 67 at 3; Systems 4, Inc., B-270543, Dec. 21, 1995, 95-2 CPD ¶ 281 at 2.

The protest is denied.³

Susan A. Poling
General Counsel

² The record indicates that ICC understood that the time for submission of quotations was 3 p.m. on July 26, as indicated by ICC's July 26 email to the contract specialist. See AR, Tab 6, ICC email to HUD.

³ In its comments, ICC for the first time argues that it is the only vendor that can satisfy "statutory and procurement requirements" with respect to these services. Comments at 2. To the extent that ICC is now arguing that its late quotation should be considered as the only acceptable quotation received by the agency, this supplemental ground of protest is untimely and will not be considered, as our Regulations do not contemplate the unwarranted piecemeal presentation or development of protest issues. Cedar Electric, Inc., B-402284.2, Mar. 19, 2010, 2010 CPD ¶ 79 at 4.