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Decision

Matter of: Atlantic Diving Supply, Inc.

File: B-421979.4

Date: May 7, 2024

Kevin J. Cosgrove, Esq., Willcox & Savage, PC, for the protester.
Maria DiGiovanni, Esq., and Katherine Vernet, Esq., General Services Administration, for the agency.
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DIGEST

Protest that the agency unreasonably evaluated the protester's quotation is denied where the record shows that the agency evaluated the protester's quotation in accordance with the terms of the solicitation.

DECISION

Atlantic Diving Supply, Inc., of Virginia Beach, Virginia, protests the award of a contract to another firm under request for quotations (RFQ) No. 47QFDA23Q0050, issued by the General Services Administration (GSA) for ballistic armor kits for the Department of the Navy. The protester asserts that the agency unreasonably evaluated its quotation.

We deny the protest.

BACKGROUND

The RFQ was issued on August 16, 2023, as a delivery order for ballistic armor kits under the GSA multiple award schedule (MAS) in accordance with Federal Acquisition Regulation (FAR) subpart 8.4 to support the Navy Shore Activities Fire Protection and Emergency Services Program. Agency Report (AR), Exh., B, RFQ, amend. 0008¹ at 3, 35. The RFQ requested two types of ballistic armor kits, each described in detail under two contract line item numbers (CLINs). *Id.* at 3-6. Each CLIN listed pieces of armor to be provided and, as relevant here, CLIN 1 required vendors to provide the Army Combat Helmet (ACH) IIIA Full-Cut Helmet with mesh and ratchet retention suspension

¹ Amendment 0008 is the most recent version of the solicitation.

in sizes medium and large. *Id.* at 4. Vendors had to provide the manufacturer, brand name, model number, part number, and specifications for each item proposed. RFQ § 11.5.1. The items proposed had to meet the required product specifications listed in section 2.4, table 2.1 of the RFQ. *Id.* at § 2.4.

Award would be made to the vendor whose quotation was the most advantageous to the government considering price and two technical factors: ballistic kits and corporate experience. *Id.* at 35-37. The kits were to be delivered according to a staggered delivery schedule and delivery had to be completed no later than 240 days after award. *Id.* at 9-12. Under the ballistic kits factor, vendors were required to provide all the items described in CLINS 1 and 2 in accordance with the product specifications in section 2.4, table 1.2, and to agree to the delivery schedule. *Id.* at 36. Quotations would be assigned pass or fail ratings under this factor. *Id.*

Under the corporate experience factor, vendors were required to provide one example of a past project completed within the past five years that required delivery and was similar in size. *Id.* at 32, 36. Under this factor, quotations would be assigned a rating of high confidence, some confidence, or low confidence; a quotation had to receive a rating of at least some confidence to be eligible for award. *Id.* at 36. Price was to be evaluated for reasonableness. *Id.*

The evaluation methodology provided that “No Assumptions, Conditions, Exceptions are permitted. Any response containing Assumptions, Conditions, or Exceptions will be rejected and are ineligible for award.” *Id.* at 37. The evaluation methodology also provided that the agency intended to make award without exchanges unless exchanges were determined to be necessary. *Id.* at 35.

The agency timely received quotations from five vendors, including Atlantic. Contracting Officer’s Statement (COS) at 1. During the evaluation, the agency determined that it needed additional information to evaluate Atlantic’s quotation and issued a letter requesting clarification of portions of Atlantic’s quotation. The letter sought Atlantic’s responses to seven items. Items 1-6 each detailed a technical requirement, the corresponding portion of Atlantic’s quotation that appeared to address the requirement, the agency’s comments on what kind of clarification was requested, and a note that the failure to meet each requirement was a technical failure. AR, Exh E, GSA Exchange Notice at 1-8. Item 7 asked Atlantic to confirm that its pricing was still valid. *Id.*

As relevant here, item number 5 described the agency’s finding that, regarding the helmets required under CLIN 1, Atlantic’s quotation had not provided specifications for a helmet with mesh and ratchet retention suspension as required by the solicitation. *Id.* at 5.

Atlantic responded that “Mesh can be provided . . . Requirement for Kit 1 requested mesh retention with ratchet, Requirement 2 did not specify.² Berry pad systems are current. [Atlantic] will provide mesh on Kit 1 and Pads on Kit 2 unless [the agency] prefers pads on both.” AR, Exh. F, Protester’s Resp. to Exchange Notice at 5. The protester attached “data sheets” to its response, which included product specification information for the helmet it intended to provide. These data sheets did not mention any kind of mesh and ratchet retention suspension. *Id.* at 8-10.

The agency considered Atlantic’s responses and completed its evaluation of all quotations. COS at 2. On January 30, the agency awarded the delivery order to another firm for \$4,382,130, notified Atlantic, and provided a brief explanation. *Id.*

The brief explanation stated that Atlantic’s quotation received a rating of fail under the ballistic kits factor, a rating of high confidence under the corporate experience factor, and its price had not been evaluated because its quotation was ineligible for award. Protest, exh. 4, Brief Explanation at 1, 5. The brief explanation further stated that Atlantic’s quotation failed to meet two of the requirements under CLIN 1 and one of the requirements under CLIN 2. *Id.* at 3-4. As relevant here, one of the three requirements Atlantic failed to meet was the requirement to provide helmets with mesh and ratchet retention suspension in sizes medium and large under CLIN 1. *Id.*

This protest followed.

DISCUSSION

The protester primarily asserts that the agency unreasonably evaluated its quotation. While we do not address every specific challenge to the agency’s evaluation, we have considered them all and find no basis to sustain the protest.³ We note at the outset that

² We note for the purpose of clarity that, as stated earlier in the decision, the RFQ required a vendor to quote for CLIN 2 an ACH, Ballistic Helmet, Standard Cut, Level IIA with a ratchet dial liner suspension harness system and assembly in sizes medium and large. RFQ at 5-6.

³ The RFQ required vendors to provide vests under CLIN 1 in a variety of sizes and ACH, Ballistic Helmets in Standard Cut, Level IIA, with a ratchet dial liner suspension harness system in sizes medium and large under CLIN 2. RFQ at 4, 6. The evaluation of Atlantic’s quotation included a finding that Atlantic failed to propose the vests required by CLIN 1 and the helmets required by CLIN 2. AR, Exh. C, Technical Evaluation Board (TEB) Report at 2, 5-6. The protester challenged these findings, asserting that it proposed to offer the required vests and helmets that met the solicitation requirements as explained in its response to the request for clarifications. Protest at 3-5; AR, Exh. F, Protester’s Resp. to Exchange Notice at 2, 5-6. We do not consider these challenges in detail because as the decision demonstrates, the agency reasonably found that Atlantic’s quotation failed to meet the technical requirement for helmets under CLIN 1.

(continued...)

where an agency issues a solicitation to Federal Supply Schedule (FSS) contractors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the evaluation was reasonable and consistent with the terms of the solicitation. *B&M Consulting Grp., Inc.*, B-420450.2, Jun. 29, 2022, 2022 CPD ¶ 167 at 3. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate quotations. *Id.* Rather, we will examine the record to determine whether the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement statutes and regulations. *Id.*

As stated above, the RFQ required that the ballistic kit described in CLIN 1 include an ACH IIIA Full-Cut Helmet with mesh and ratchet retention suspension in sizes medium and large. RFQ at 4. Atlantic's quotation offered to provide the "AS200, BERRY COMPLIANT, LEVEL IIIA BALLISTIC HELMET WITH TW CAM FIT BOA RETENTION, AND AS 7 PADS, FULL CUT, LARGE, TAN" for both CLINS 1 and 2. AR, Exh. D, Atlantic Quotation at 22, 26. Atlantic's proposed helmet comes with a padding system, not mesh and ratchet retention suspension as required by the solicitation. Protest at 4; MOL at 10 n 5. Atlantic's quotation only listed "large" for the helmets it intended to provide. AR, Exh. D, Atlantic Quotation at 22, 26.

The agency ultimately determined that Atlantic's quotation did not meet the technical requirements for helmets under CLINs 1 because its proposed helmet is equipped with a padding system and its quotation did not offer to provide helmets in both medium and large sizes. AR, Exh. C, TEB Report at 2.

The protester does not argue that it proposed to provide a helmet that met this requirement. Rather the protester argues that its response to the agency's request for clarifications demonstrated that it could provide mesh and ratchet retention suspension helmets unless the agency wanted a padding system as helmets with pads are safer. Protest at 4; Comments at 4-5. The protester argues that therefore the agency's evaluation of its quotation was unreasonable because it ignored its response to the agency's request for clarifications. *Id.* The protester also argues that the agency unreasonably concluded that its quotation did not specify both medium and large sizes because its quotation "included the helmet size requirements" and cites to the portions of its quotation that recite the solicitation requirements. Protest at 5.

We do not find these arguments persuasive. By its own admission and as reflected by the record, Atlantic did not quote a helmet with mesh and ratchet retention suspension as required by the solicitation. Rather, Atlantic stated in its response to the agency that "Mesh can be provided . . . [and that it] will provide mesh on Kit 1 and pads on Kit 2 unless [the agency] prefers pads on both." AR, Exh. F, Protester's Resp. to Exchange Notice at 5. Therefore, it was reasonable for the agency to conclude that Atlantic's quotation failed to meet this requirement because it did not clearly offer to propose the

Therefore, even if the agency's findings with respect to the vests under CLIN 1 and helmets under CLIN 2 were unreasonable, the protester's quotation would still be ineligible for award.

items specifically required by the solicitation. Moreover, the RFQ expressly stated that “No Assumptions, Conditions, Exceptions are permitted. Any response containing Assumptions, Conditions, or Exceptions will be rejected and are ineligible for award.” RFQ at 37. Atlantic had ample notice that its quotation would be rejected for quoting a type of helmet other than the one requested, and the agency was under no obligation to consider the protester’s clarification to meet the requirement in its response to the request for clarifications as clarifications are limited exchanges that allow vendors to explain certain aspects of their proposals or to resolve minor or clerical mistakes.⁴ FAR 15.306(a)(1), (2); *JHC Tech., Inc.*, B-417786, Oct. 23, 2019, 2019 CPD ¶ 376 at 4-5.

Additionally, Atlantic’s quotation lists helmets under CLINS 1 in “large,” and says nothing about medium sizes in this portion of its quotation. AR, Exh. D, Atlantic Quotation at 22, 26. The portions of its quotation that Atlantic relies upon to support its contention that it would provide medium sizes simply recite verbatim the requirements under each CLIN which Atlantic added a green checkmark next to. *Id.* at 2-3. Therefore, it is reasonable that the agency would be uncertain about whether Atlantic intended to provide medium sizes since its quotation only recited the solicitation requirements. It is a vendor’s responsibility to submit an adequately written quotation that demonstrates its merits, and Atlantic took the risk that its quotation would be rejected for failing to meet this technical requirement when it intentionally quoted a different type of helmet and failed to clearly convey that the helmet would be provided in medium sizes as well as large. *B&M supra* at 5; *See MIL Corp.*, B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 11 (explaining that where a vendor’s quotation merely repeats or “parrots back” solicitation requirements, it is reasonable that the agency

would not consider this sufficient information to demonstrate that the vendor will conform to the requirements).

⁴ There is no requirement in FAR subpart 8.4 that an agency seek clarifications or otherwise conduct discussions with vendors. *Aurotech, Inc.*, B-413861.4, Jun. 23, 2017, 2017 CPD ¶ 205 at 10. However, exchanges that do occur with vendors in a FAR subpart 8.4 procurement, like all other aspects of such a procurement, must be fair and equitable; our Office has looked to the standards in FAR part 15 for guidance in making this determination. *Id.* In this regard, FAR part 15 defines clarifications as “limited exchanges” that agencies may use to allow offerors to clarify certain aspects of their proposals (or in this case quotations) or to resolve minor or clerical mistakes. *See* FAR 15.306(a)(1), (2); *Diversified Collection Servs., Inc.*, B-406958.3, B-406958.4, Jan. 8, 2013, 2013 CPD ¶ 23 at 11 (using FAR part 15 definitions of post-proposal communications, or exchanges, as guidance in FSS context).

The protest is denied.

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General Counsel