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# Decision

**Matter of:** Competitive Innovations, LLC

**File:** B-422197.3

**Date:** September 6, 2024

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Timothy B. Mills, Esq., Mills Law Group LLP, for the protester.  
John R. Prairie, Esq., J. Ryan Frazee, Esq., Jennifer Eve Retener, Esq., and  
W. Benjamin Phillips, III, Esq., Wiley Rein LLP, for RELI Group, Inc., an intervenor.  
Michael Kiffney, Esq., Christian Jordan, Esq., and Christopher J. Curry, Esq.,  
Department of Homeland Security, for the agency.  
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel,  
GAO, participated in the preparation of the decision.

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## DIGEST

Agency properly determined that protester's quotation failed to comply with the solicitation requirements regarding mapping of labor categories to protester's federal supply schedule contract and rejected protester's attempt to revise its quotation after the closing time for submission of quotations had passed.

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## DECISION

Competitive Innovations, LLC (CI), of Arlington, Virginia, protests the Department of Homeland Security's rejection of the quotation CI submitted in response to request for quotations (RFQ) No. 70T05023Q7500N001 to provide integrated program management support services (IPMSS). The agency's rejection was based on CI's failure to comply with the solicitation requirements regarding mapping of labor categories to CI's federal supply schedule (FSS) contract. CI asserts that the agency should have considered CI's post-closing-time modification of its FSS contract. Protest at 1-2, 19-24.<sup>1</sup>

We deny the protest.

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<sup>1</sup> Page number citations in this decision refer to the Adobe PDF page numbers in the documents submitted.

## BACKGROUND

In February 2023, pursuant to section 8.405-3 of the Federal Acquisition Regulation (FAR), the Department of Homeland Security, Transportation Security Administration (TSA), issued the RFQ, seeking to establish multiple five-year blanket purchase agreements with vendors holding certain FSS contracts. Agency Report (AR), Tab 1, RFQ at 1-2. As amended, the solicitation provided that source selection would be based on three evaluation factors: prior experience; technical approach/management approach; and price.<sup>2</sup> AR, Tab 11, RFQ amend. 10 at 46-48.

Of relevance here, the solicitation identified various labor categories (LCATs), along with applicable category descriptions and education/experience requirements, for which vendors were required to submit fully burdened labor rates based on the labor categories in their FSS contracts. In this context, the solicitation stated:

Labor categories, labor category descriptions, education/experience, and rates must be clearly mapped to your GSA [General Services Administration] schedule contract. . . . Quoters shall provide a copy of their GSA Price Lists for all five years for verification of pricing. The Quoter shall ensure that a GSA Equivalent labor category and description is included with their submission in sufficient detail for evaluation.

\* \* \* \* \*

If any of the equivalent GSA Labor Categories, GSA Labor Category Descriptions, and Education/Experience do not clearly map to the Government provided Labor Categories, Labor Category Descriptions, and Education/Experience, the Quoter may be eliminated from award consideration.

*Id.* at 45-47.

CI submitted its phase I quotation in March 2023, its initial phase II quotation in December 2023, and a revised phase II quotation on March 4, 2024.

By letter dated March 26, 2024, the agency advised CI that one of the FSS LCATs on which CI relied for its quotation did not map to the required solicitation LCAT, stating:

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<sup>2</sup> The solicitation provided for submission and evaluation of quotations in two phases. In phase I, vendors submitted information regarding their prior experience; in phase II vendors submitted information responding to the requirements that were to be evaluated under the technical approach/management approach and price evaluation factors. AR, Tab 1, RFQ at 41-42.

CI's [redacted] equivalent LCAT description does not clearly map to that of TSA's Acquisition Support Specialist LCAT description.

Please confirm where in CI's GSA LCAT [redacted] description that it states services in contracting, procurement, or acquisition activities.<sup>[3]</sup>

CI will be allowed to submit a final revised Phase II Quote. . . . The final revised quote must be submitted via GSA's eBuy by 10 am on 3 April 2024.

AR, Tab 18, Phase II Communication Letter at 1.<sup>4</sup>

Prior to 10 a.m. on April 3, 2024, CI submitted its revised quotation. However, as part of its submission, CI stated that "GSA is in the process of approving a modification to our [FSS contract]."<sup>5</sup> AR, Tab 19, Final Revised Quotation at 2. At 12:48 p.m. on April 3, CI submitted the modification to its FSS contract, expressly acknowledging that the modification had not been signed until "shortly after the 10AM deadline for IPMSS revisions."<sup>6</sup> AR, Tab 22, Email from CI to Contracting Officer at 1.

Thereafter, the agency concluded that the quotation CI submitted prior to the 10 a.m. closing time failed to comply with the solicitation requirement that labor categories "be clearly mapped to your GSA schedule contract," and that CI's subsequent attempt to revise its quotation, through modification of its FSS contract, occurred after the 10 a.m. closing time. Accordingly, the agency concluded that CI's quotation failed to comply

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<sup>3</sup> The solicitation's description of an acquisition support specialist included the following: "Applies contracting laws, regulations, principles, and procedures to assist in the planning and completion of contracting and procurement activities." AR, Tab 8, amend. 7 attach. 1, Excel Spreadsheet.

<sup>4</sup> Consistent with the agency's letter, the solicitation was amended to state: "Quoters shall submit a revised Phase II response no later than April 3, 2024 at 10:00 am Eastern Standard Time." AR, Tab 11, RFQ amend. 10 at 41.

<sup>5</sup> CI states that it "initiated a modification request to GSA" on March 27, requesting to change its description of the FSS LCAT at issue [redacted] by adding references to support for "contracting" and "procurement and/or acquisition strategies, processes, [and] procedures." Protest at 14.

<sup>6</sup> In its protest, CI states that the modification was completed "[a]t approximately 12:00 p.m. (noon), 3 April 2024." Protest at 16.

with the solicitation's requirements and would not be further considered.<sup>7</sup> AR, Tab 23, Contracting Officer Memorandum to the File at 1-5.

CI was subsequently notified that its quotation had been rejected; this protest followed.

## DISCUSSION

CI protests that, because the modification to its FSS contract was dated April 3, and GSA's regulations regarding modification of FSS contracts provide that "[t]he effective date of any modification is the date specified in the modification,"<sup>8</sup> the agency should have considered the modification to have been effective "for the entire calendar day, commencing at the start of the business day at GSA – which on 3 April 2024 was approximately 8 a.m." Protest at 20. Accordingly, CI maintains that the modification of its FSS contract, and revision of its quotation, "was effective prior to the deadline of 10 a.m." *Id.*

The agency responds that, as of the 10 a.m. closing time, CI's quotation failed to comply with the solicitation requirements regarding the mapping of labor categories.<sup>9</sup> The agency further notes that, as amended, the solicitation clearly required that final revised quotations be submitted "no later than April 3, 2024 at 10:00 am Eastern Standard Time." See AR, Tab 11, RFQ amend. 10 at 41. Yet, CI attempted to revise its quotation, through modification of its FSS contract, more than two hours after the closing time. Finally, the agency notes that the statement in GSA's regulations regarding the effective date of FSS modifications does not, in effect, negate the agency's requirements for submission of quotations at a specific time on that date. In this regard, application of CI's theory--that any modification to an FSS contract must be considered to have been in effect for "the entire calendar day"--would eliminate the agency's requirement for a common closing time for submission of quotations, permitting vendors to ignore the stated closing time and submit quotations at any time on April 3. In short, the agency maintains that its rejection of CI's quotation was appropriate. We agree.

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<sup>7</sup> In his analysis, the contracting officer noted that the solicitation incorporated section 52.212-1 of the Federal Acquisition Regulation, which states: "[a]ny offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is 'late' and will not be considered . . . ." AR, Tab 23, Contracting Officer Memorandum to the File at 3-5. The contracting officer further noted that none of the exceptions to this provision were applicable. *Id.*

<sup>8</sup> CI refers to section 552.238-82(c) of the General Services Acquisition Regulation.

<sup>9</sup> The agency notes that CI has not meaningfully disputed the agency's conclusion that, prior to modification of CI's FSS contract, the description of an [redacted] LCAT in CI's FSS contract did not reference procurement-related activities and, accordingly, did not clearly map to the solicitation's requirement for an acquisition support specialist LCAT. Memorandum of Law at 6-7.

The FSS program provides a simplified process for obtaining commonly used commercial supplies and services. FAR 8.401(a). However, an agency may not use FSS procedures to purchase goods or services that are not contained on an awardee's FSS contract. See, e.g., *US Investigations Servs., Prof'l Servs. Div., Inc.*, B-410454.2, Jan. 15, 2015, 2015 CPD ¶ 44 at 3; *American Warehouse Sys.*, B-402292, Jan. 28, 2010, 2010 CPD ¶ 41 at 2. That is, where an agency announces its intent to order from an existing FSS, all goods or services quoted must be on the vendor's schedule contract. *AWS Convergence Techs., Inc.*, B-404002.2, B-404002.3, Apr. 20, 2011, 2011 CPD ¶ 95 at 7; *Science Applications Int'l Corp.*, B-401773, Nov. 10, 2009, 2009 CPD ¶ 229 at 2 n.1; *Tarheel Specialties, Inc.*, B-298197, B-298197.2, July 17, 2006, 2006 CPD ¶ 140 at 4.

Further, it is well settled that a proposal received after the time set for receipt may not be considered for an award, and revisions or modifications thereto must reach the government office designated in the solicitation by the time specified. *Metters, Inc.*, B-403629, Nov. 10, 2010, 2010 CPD ¶ 273 at 3; see also *PMTech, Inc.*, B-291082, Oct. 11, 2002, 2002 CPD ¶ 172 at 3 n.2. This rule alleviates confusion, ensures equal treatment of offerors, and prevents one offeror from obtaining a competitive advantage as a result of being permitted to submit a proposal later than the deadline set for all competitors. *Inland Serv. Corp., Inc.*, B-252947.4, Nov. 4, 1993, 93-2 CPD ¶ 266 at 3.

Here, as discussed above, there is no meaningful dispute that the quotation CI submitted prior to the 10:00 a.m. closing time on April 3 failed to comply with the RFQ requirement regarding mapping of LCATs. Further, CI specifically acknowledges that the revisions to its quotation, effected by modification of its FSS contract, did not occur until more than two hours after the closing time. On this record, CI's assertion that the agency should have evaluated its quotation, as revised by the post-closing time modification of its FSS contract, is without merit.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel