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Decision

Matter of: McDonald & Eudy Printers, Inc.

File: B-422677; B-422678

Date: September 30, 2024

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James Goodman, III, Esq., Government Publishing Office, for the agency.
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DIGEST

Protests challenging rejection of quotations are denied where the agency reasonably determined that the equipment with which the protester intended to perform the work did not comply with the requirements of the solicitations.

DECISION

McDonald & Eudy Printers, Inc., (M&E) of Temple Hills, Maryland, protests the Government Publishing Office's (GPO) rejection of the small purchase price quotations it submitted in response to two solicitations¹--Jacket No. 428-718 R-1 and Jacket No. 428-720--for small purchase orders to produce books for the Smithsonian Institution. M&E challenges the agency's determination that the printers on which its price quotations were based did not meet the solicitations' requirements.

We deny the protests.

¹ Although the parties use the terms "quotations" or "quotes," and "bids," interchangeably throughout the record, the solicitations contemplated the issuance of small purchase orders and were labeled as "quotation requests." Our decision refers to the submission of price quotations for consistency. Also, M&E submitted separate but materially identical challenges to the two procurements and requested that its protests be consolidated. Given the significant similarity and overlap in content, we address both protests in one decision here.

BACKGROUND

The agency issued the two solicitations for small purchase orders for “perfect bound books” to be produced and delivered according to certain specifications.² Of relevance here, the solicitations provided that the books “may be produced via conventional offset or digital printing” but warned:

Resolution that is enhanced or simulated by software will not be acceptable. NOTE: Contractor must produce the entire job either conventional offset or digital printing; split production methods are not acceptable without prior approval.

Agency Report (AR), B-422677, Jacket No. 428-718 R-1 at 2; AR, B-422678, Jacket No. 428-720 at 2. The solicitations instructed vendors to submit price quotations using GPO’s online quotation system, “Quick Quote,” and further provided that, “[p]rior to award, contractor may be required to provide information related to specific equipment that will be used for production.” AR, B-422677, Jacket No. 428-718 R-1 at 7; AR, B-422678, Jacket No. 428-720 at 7.

On or before the June 7, 2024, closing date for the solicitations, the agency received multiple quotations. For the first solicitation, M&E submitted the lowest-priced quotation. COS, B-422677 at 1; AR, B-422677, Exh. B, Bid Abstract. For the second solicitation, M&E’s quotation was the lowest-priced after the agency rejected another, lower-priced quotation. COS, B-422678 at 1; AR, B-422678, Exh. B, Bid Abstract.

From June 7 to June 10, prior to making its award decision, the agency conducted a “review and confirm” of M&E’s quotations, during which the agency and M&E exchanged several emails. The agency asked M&E to confirm if it was “printing digital or offset” and, “if digital, supply make/model of press.” AR, B-422677, Exh. C, Review and Confirm Email Thread at 3; AR, B-422678, Exh. D, Review and Confirm Email Thread at 3.

In a series of email responses, M&E provided the makes/models of what it called two “digital printers”--a RICOH 8320 printer and a RICOH C9200 printer.³ M&E also

² Under the first solicitation, the contractor would be responsible for producing 987 perfect bound books titled “LAAXAAYIK, Near the Glacier with Mailing.” Agency Report (AR), B-422677, Jacket No. 428-718 R-1. Under the second solicitation, the contractor would be responsible for producing 544 perfect bound books titled “Understanding Use (Artefacts 13) with Mailing.” AR, B-422678, Jacket No. 428-720. The agency advises that the approximate value for the first purchase order is \$10,745 and the approximate value for the second purchase order is \$7,696. Contracting Officer’s Statement (COS), B-422677 at 3; COS, B-422678 at 3.

³ M&E’s responses included additional information, including what it acknowledged was a typographical error in its initial response regarding the printer M&E would use. That
(continued...)

attached detailed printer specifications about the two printers, for the agency's consideration. See AR, B-422677, Exh. C, Review and Confirm Email Thread at 1; AR, B-422677, Exh. D, M&E Confirming Typo in Review and Confirm Email at 1; AR, B-422678, Exh. D, Review and Confirm Email Thread at 1-3; see *also* AR, B-422677, Exh. E, RICOH Pro Series 8320 Specs; AR, B-422678, Exh. G, RICOH Pro Series C9200 Specs.

The agency reviewed the information provided by M&E and noted that the printer specifications for each digital printer model indicated resolution with certain imaging technology. Specifically, for the first printer model, RICOH 8320, the specifications stated the use of "2400 x 4800 dpi [dots per inch] VSCEL [vertical cavity surface emitting laser] Imaging Technology." AR, B-422677, Exh. E, RICOH Pro Series 8320 Specs at 2. For the second printer model, RICOH C9200, the specifications stated the use of "2400 x 4800 dpi resolution with VCSEL Technology." AR, B-422678, Exh. G, RICOH Pro Series C9200 Specs at 2. In other words, by providing printer models with imaging technology, the agency explains, M&E's quoted printers did not comply with the solicitations' prohibition against "[r]esolution that is enhanced or simulated by software." See AR, B-422677, Jacket No. 428-718 R-1 at 2; AR, B-422678, Jacket No. 428-720 at 2; COS, B-422677 at 2; COS, B-422678 at 2.

On June 10, the agency notified M&E that its quotations were rejected. The record shows, and the agency explains, that M&E's quotations were rejected for a number of reasons, including that they were "nonresponsive due to [their] non-adherence with the solicitation's terms regarding resolution." See AR, B-422677, Tab G, Nonresponsive Notification Letter at 1; COS, B-422677 at 2; AR, B-422678, Tab H, Nonresponsive Notification Letter at 1; COS, B-422678 at 3 (explaining that this reason was "inadvertently omitted in the nonresponsive determination letter"). The agency states that subsequent to the rejection of M&E's quotation, the award was made based on the

response suggested it would use a conventional offset printer in addition to a digital printer--*i.e.*, a "split production method" that was prohibited by the solicitations. See AR, B-422677, Jacket No. 428-718 R-1 at 2; AR, B-422678, Jacket No. 428-720 at 2. Specifically, for the second printer, M&E first stated that it would be using a "Heidelberg 9320" but later corrected that "it should state Heidelberg 9200 not Heidelberg 9320." M&E also later attached specifications for a "RICOH Pro C9200" and clarified that "[t]his was built by Richo [sic] but Heidelberg handles the service, so they put their name on the device." AR, B-422677, Exh. C, Review and Confirm Email Thread at 1; AR, B-422677, Exh. D, M&E Confirming Typo in Review and Confirm Email at 1; AR, B-422678, Exh. D, Review and Confirm Email Thread at 1-3; see *also* AR, B-422678, Exh. G, RICOH Pro Series C9200 Specs. Given the agency's representations that its decision to reject M&E's quotation was ultimately based on its determination that the protester's quoted products did not comply with the requirements of the solicitations, we need not further address the question of M&E's misidentification of the printer it would use.

next lowest responsive and responsible quotation. COS, B-422677 at 3; COS B-422678 at 3. These protests followed.⁴

DISCUSSION

In its various filings, M&E argues that the agency improperly rejected its quotations because, in the protester's view, its quotations "fully complie[d]" with the requirements of the solicitations. Protest, B-422677 at 6; Protest, B-422678 at 6. In response, the agency maintains that it reasonably rejected the quotations because, in sum: the solicitations expressly provided that "[r]esolution that is enhanced or simulated by software will not be acceptable," which the agency explains was a material requirement; the information provided by M&E for the agency's consideration described its printers as using resolution with certain imaging technology; and therefore, in the agency's reasonable judgment, M&E's quotations "did not conform to the agency's [m]aterial requirements." Memorandum of Law (MOL), B-422677 at 2; MOL, B-422678 at 2.

As an initial matter, we note that GPO procurements are governed by GPO's Printing Procurement Regulation (PPR), rather than the Federal Acquisition Regulation (FAR). Nevertheless (just as in the case of ordinary quotations and purchase orders under the FAR), GPO purchasing regulations specify that a quotation is not an offer; rather, the quotation is informational, the purchase order is the offer, which the vendor may accept expressly or through performance (unless the purchase order specifies another means of acceptance). *Premium & Specialties, Inc.*, B-410247, Nov. 13, 2014, 2014 CPD ¶ 340 at 3, *citing* PPR Part VII § 4 and FAR § 13.004. In addition, GPO purchasing regulations specify that "[t]he responsible firm with the lowest acceptable quotation shall be issued a purchase order." PPR VII-4.2(c).

Moreover, in reviewing a protest challenging a procuring agency's technical assessments or determinations, our Office will generally defer to the technical expertise of the agency and will not substitute our judgment for that of the agency; rather, we will review the record to determine whether the agency's judgments were reasonable. See *CI Filing Sys., LLC*, B-411012, Apr. 17, 2015, 2015 CPD ¶ 131 at 5, *citing Analytical Innovative Sols., LLC*, B-408727, Nov. 6, 2013, 2013 CPD ¶ 263 at 3. On the record here, we find no basis to question the reasonableness of the agency's decision to reject M&E's quotations where that decision was based on M&E's failure to demonstrate that its quoted printers, using resolution with certain imaging technology, complied with the solicitations' express restrictions against resolution that is "enhanced or simulated by software." In other words, the record shows that M&E's printer specifications provided for "resolution with VCSEL Technology" or "VCSEL Imaging Technology," and the

⁴ M&E notes that it did not receive "any formal rejection" under the first solicitation but explains that it filed its protest under the "assumption" that its quotation was rejected given the rejection of its quotation under the second solicitation. Protest, B-422677 at 4; Comments, B-422677 at 1. The agency explains that it "inadvertently failed to forward to the protester the nonresponsive determination letter" for the first solicitation. COS, B-422677 at 2 n.1.

agency has explained that it reviewed this information and found that this type of “resolution enhancement” did not conform to the solicitations’ requirements. The protester has not provided any substantive explanation of how the agency’s conclusion about its printer specifications was wrong, other than complaining that this is “a technical issue that will still need to be resolved” and is a matter “for discussion between GPO and M&E’s technical experts.” Comments, B-422677 at 4; Comments, B-422678 at 4. The protester’s disagreement with the agency’s reasonable judgment does not provide a basis to sustain the protest.

In challenging the agency’s evaluation, M&E raises a number of alternative arguments that are either unpersuasive or inapposite. For example, M&E argues that the agency’s rejection of its quotations should be treated as an improper *responsibility* determination because the agency considered information submitted by M&E after the due date for quotations. Comments, B-422677 at 2, *citing SourceLink Ohio, LLC*, B-299258, Mar. 12, 2007, 2007 CPD ¶ 50 (sustaining protest challenging the GPO’s rejection of a sealed bid where the protester failed to submit a data use agreement but the failure to include the agreement could be cured after bid opening because it was a matter concerning the bidder’s responsibility, not the responsiveness of the bid). As explained in *SourceLink, supra*, however, responsibility “refers not to a bidder’s promise to perform, but rather its apparent ability and capacity to perform the contract requirements and is determined not at the time of bid opening, but at any time prior to award, based on any information received by the agency up to that time.” *Id.* at 3.

The protester’s reliance on *SourceLink* is unavailing because the decision is materially distinguishable in a number of respects, including that the solicitations here provided for the receipt of small purchase price quotations, instead of sealed bids, which are different types of solicitations with different applicable rules. For example, a request for quotations, unlike 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 *Advanced Decisions Vectors, Inc.*, B-412307, Jan. 11, 2016, 2016 CPD ¶ 18 at 7 n.10 (and internal citations); see also, e.g., *Premium & Specialties, Inc., supra* (discussing GPO procurement using quotations); *CI Filing Sys., LLC, supra* (discussing GPO procurement using bids). In this regard, to the extent M&E complains that the agency improperly considered information submitted by M&E after the due date for receipt of quotations, we note that the agency’s actions were appropriate where the solicitations expressly provided that “[p]rior to award, contractor may be required to provide information related to specific equipment that will be used for production.” AR, B-422677, Jacket No. 428-718 R-1 at 7; AR, B-422678, Jacket No. 428-720 at 7.

Moreover, the information submitted by M&E concerned the specifications of its quoted printers to meet a technical requirement, as opposed to a licensing-type requirement, or ability to perform, at issue in *SourceLink*. As M&E acknowledges, the question of whether its quoted printers comply with the solicitations’ restrictions against resolution that is “‘enhanced or simulated by software’ raises a technical issue”--indeed, a question of whether the protester demonstrated compliance with the solicitations’

requirements, rather than a responsibility question. Comments, B-422677 at 4;
Comments, B-422678 at 4.

The protests are denied.

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