



Decision

Matter of: Bye UAS, Inc. d/b/a Silent Falcon UAS Technologies

File: B-422964

Date: December 18, 2024

Grant Bishop, Bye UAS, Inc. d/b/a Silent Falcon UAS Technologies, for the protester. Colonel Nina Padalino, Siobhan K. Donahue, Esq., Karen S. White, Esq., William Fuller, Esq., and Erika Whelan Retta, Esq., Department of the Air Force, for the agency. Christine Milne, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

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

DECISION

Bye UAS, Inc., doing business as Silent Falcon UAS Technologies (Silent Falcon), of McLean, Virginia, protests the issuance of a purchase order to Chimborazo JV, of Kennesaw, Georgia, under request for quotations (RFQ) No. FA8051-24-R-4004, issued by the Department of the Air Force for pavement condition index (PCI) evaluations and corresponding analyses and reports. The protester primarily argues that the agency unreasonably evaluated its quotation.

We deny the protest.

BACKGROUND

On July 22, 2024, the Air Force issued the RFQ pursuant to the procedures of Federal Acquisition Regulation (FAR) part 12, Acquisition of Commercial Products and Commercial Services, and FAR subpart 13.5, Simplified Procedures for Certain Commercial Products and Commercial Services. Agency Report (AR), Tab 4, RFQ at 1. The RFQ, which was set aside for small business concerns, sought quotations for a contractor to provide airfield, roads, and PCI evaluations and corresponding analyses and reports for various Air Force installations. *Id.* at 2. The contractor will provide technical expertise, labor, travel, and all materials required to verify and update the

pavement inventory and conduct PCI inspections to document specific distress on the airfields, roads, and parking areas at the installations. *Id.* As part of this effort the contractor will update the PAVER™ pavement maintenance management system database and reconcile any differences between PAVER and an installation's real property asset database (RPAD). Performance Work Statement (PWS) at ¶ 4.1.1.

Award was to be made to the vendor whose quotation represented the best value to the government considering three evaluation factors: technical, past performance, and price. RFQ at 4. The technical factor was comprised of four subfactors, the first of which was technical management approach. *Id.* As relevant here, the technical management approach subfactor required vendors to propose a technical plan demonstrating their understanding of the PWS requirements and how they will be accomplished. *Id.* at 5. Under the technical subfactor, quotations would be assigned a combined technical/risk rating of blue/outstanding, purple/good, green/acceptable, yellow/marginal, or red/unacceptable. *Id.* at 5-6. For the remaining technical subfactors and the past performance factor, quotations would be evaluated as acceptable or unacceptable. *Id.* Price would be evaluated for reasonableness. *Id.* The RFQ also provided that the government may trade off price for a vendor's superior offering under the technical management approach subfactor. *Id.* at 4.

Nine quotations were received by the solicitation's August 12 closing date, including those from Chimborazo and Silent Falcon. Contracting Officer's Statement (COS) at 4-5. The agency evaluated the quoted prices and found that 8 were reasonable, including those of Chimborazo and Silent Falcon. *Id.* at 5. Chimborazo's quotation was the lowest-priced at \$1,986,911, and Silent Falcon's was second-lowest at \$2,078,098. *Id.*

Chimborazo's quotation was evaluated as green/acceptable under the technical management approach subfactor, with no identified strengths, weaknesses, or deficiencies. AR, Tab 7, Technical Evaluation at 9-10. The firm's quotation was rated acceptable under the remaining technical subfactors and under the past performance factor. *Id.* at 10-11. Several other vendors were also rated green/acceptable under the technical management approach subfactor with acceptable ratings under the remaining technical subfactors and under the past performance factor. AR, Tab 8, Source Selection Decision Document (SSDD) at 4.

Silent Falcon's quotation was evaluated as yellow/marginal under the technical management approach subfactor, with one strength and several weaknesses. AR, Tab 7, Technical Evaluation at 20. The strength was due to the firm's proposed use of small unmanned aerial systems (sUAS) and photogrammetry camera technology that would allow for 100 percent inspection coverage and georeferenced distresses throughout the pavement surfaces. *Id.* at 19. However, the agency also identified several weaknesses in this approach. For example, the agency found that: (1) Silent Falcon's technical approach did not fully outline how it would coordinate and receive authorization to fly sUAS over Department of Defense (DOD) airfields and in Air Force airspace; (2) the approach did not outline how the firm would scan pavement areas where there are parked aircraft on the airfield or vehicles parked throughout parking

lots; and (3) its approach did not demonstrate an understanding of using real property asset data and common installation pictures (CIPs) to identify pavement areas that need to be updated to mitigate discrepancies between RPAD and PAVER™ databases. *Id.* at 20. While Silent Falcon’s quotation was rated acceptable under the remaining technical subfactors and under the past performance factor, the agency concluded that the quotation did not demonstrate an adequate understanding of all the requirements and the risk of unsuccessful performance was high based on the assigned weaknesses. *Id.*

The contracting officer, acting as the source selection authority (SSA), reviewed the evaluation findings and conducted a best-value tradeoff analysis between the quotations of Chimborazo, which was the lowest-priced with a rating of green/acceptable under the technical management approach subfactor, and another firm whose quotation received a rating of purple/good under the subfactor but had a much higher price.¹ AR, Tab 8, SSDD at 3-4. The contracting officer found that the other firm’s superior technical rating did not outweigh the additional cost and made award to Chimborazo. *Id.* at 4. The agency provided Silent Falcon with a debriefing² on September 16 and this protest followed.

DISCUSSION

Silent Falcon asserts that the agency unreasonably evaluated its quotation and challenges all of the weaknesses assigned by the agency.³ We have reviewed all of Silent Falcon’s allegations and find that none provide a basis to sustain the protest.⁴ We address a few examples of the firm’s allegations below.

¹ Multiple firms’ quotations received ratings of green/acceptable under the technical management approach subfactor and ratings of acceptable for the remaining evaluation criteria. AR, Tab 8, SSDD at 3-4. Silent Falcon’s was the only quotation rated as yellow/marginal under the technical management approach subfactor. *Id.*

² Although this procurement was conducted pursuant to FAR parts 12 and 13, the agency states that it provided a debriefing in accordance with FAR section 15.506. COS at 6.

³ Silent Falcon’s protest argued that the agency failed to evaluate its innovative technology and efficiency. Protest at 2. While the agency addressed this argument in its report responding to the protest, Silent Falcon did not address this protest ground further in its comments on the agency’s report. Therefore, we consider Silent Falcon to have abandoned this argument and will not consider it further. *United Coatings*, B-291978.2, Jul. 7, 2003, 2003 CPD ¶ 146 at 11 n.15.

⁴ The agency requests dismissal of the protest, asserting that it lacks a valid basis. Req. for Dismissal at 1. In its response, the protester raised a new argument for the first time--that Chimborazo proposed to use “manual sampling” of pavements, which Silent Falcon asserts is a “non-compliant sampling” methodology and prone to

(continued...)

As stated above, the Air Force conducted this procurement using simplified acquisition procedures for commercial items. Simplified acquisition procedures are designed, among other things, to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors. FAR 13.002. When using these 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. *SSI Tech., Inc.*, B-412765.2, July 13, 2016, 2016 CPD ¶ 184 at 3; *Recogniti, LLP*, B-410658, Jan. 21, 2015, 2015 CPD ¶ 49 at 5. In reviewing protests of an allegedly improper simplified acquisition evaluation, our Office examines the record to determine whether the agency met this standard and exercised its discretion reasonably. *Emergency Vehicle Installations Corp.*, B-408682, Nov. 27, 2013, 2013 CPD ¶ 273 at 4.

As explained above, under the technical management approach subfactor, vendors were to submit an “explicit” technical plan that included documented methods and processes. RFQ at 5. As also explained above, the agency noted several weaknesses with Silent Falcon’s quotation under this subfactor. These weaknesses caused the agency to conclude that Silent Falcon’s quotation did not demonstrate an adequate understanding of the requirements and that the risk of unsuccessful performance was high. AR, Tab 7, Technical Evaluation at 20-21; AR, Tab 8, SSDD at 3-4.

The first weakness the agency noted related to Silent Falcon’s plan to use sUAS to complete the required pavement inspections. AR, Tab 6, Silent Falcon Quotation at 1-8. The agency noted that Silent Falcon’s quotation did not fully explain how Silent Falcon intended to obtain authorization to fly the sUAS over DOD airfields and in United States Air Force airspace. The agency noted that this authorization could take months

significant error. Resp. to the Req. for Dismissal at 2-3. The agency responded to this allegation in its report, asserting that it was untimely raised as the protester likely knew of the basis for it when the protest was filed. Memorandum of Law (MOL) at 15-16. The protester did not respond to the agency’s timeliness argument, but simply repeated the same argument it made in its response to the request for dismissal. Comments at 15-17.

We agree with the agency. The protester first raised this argument in its response to the request for dismissal, filed on October 3, more than 10 days after the protest was filed. The protester has provided us with no response or evidence showing that it became aware of the basis for this argument within 10 days of when it was first raised and has not provided us with any facts establishing the timeliness of this argument as required by our regulations. See 4 C.F.R. § 21.1(c) (stating that a protest filed with GAO “shall” “set forth all information establishing the timeliness of the protest”). As a result, this argument is dismissed as untimely. A protest based on other than alleged improprieties in a solicitation must be filed no later than 10 calendar days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2).

to receive from each installation and there were many other administrative requirements Silent Falcon would have to meet to execute this part of its approach that it did not address in its quotation. AR, Tab 7, Technical Evaluation at 18-19.

Without citing any section of its quotation, Silent Falcon argues that it “explicitly outlines” its administrative process for obtaining sUAS authorization in accordance with Air Force policy. Comments at 3. Our review of the quotation shows only high-level statements such as “the ‘Air Boss’⁵ will coordinate with each airfield in advance and be the point of contact,” and “the drone flights are overseen by the Air Boss that ensures each pilot is operating per the mission and clearances provided.” AR, Tab 6, Silent Falcon Quotation at 1-9. While the protester’s comments provide a lengthy explanation of the process, the fact remains that Silent Falcon did not provide any of this information in its actual quotation and we have no basis to question the finding as a weakness. It is a vendor’s obligation to submit an adequately written quotation for the agency to evaluate, with adequately detailed information that clearly demonstrates compliance with the solicitation requirements, and a vendor risks having its quotation evaluated unfavorably where it fails to submit an adequately written quotation. *Navarre Corp.*, B-419088.4, Jul. 29, 2022, 2022 CPD ¶ 204 at 7; *SamKnows Inc.*, B-421595, Jul. 17, 2023, 2023 CPD ¶ 173 at 5.

The next weakness the agency noted was that Silent Falcon’s quotation did not outline how it would scan pavement areas when there were parked aircraft on the airfield or vehicles parked in parking lots. AR, Tab 7, Technical Evaluation at 19.

Silent Falcon argues, again without citing any portion of its quotation, that it proposed to coordinate with stakeholders to schedule scans during low-traffic periods, particularly weekends, to re-visit areas as needed, and to work with stakeholders to keep pavement areas free of vehicles and aircraft. Comments at 4-5. While the quotation does state that it will shift its data collection operations to take place Friday through Sunday to avoid high operations tempo missions, AR, Tab 6, Silent Falcon Quotation at 1-1, the quotation does not address how Silent Falcon would scan pavement areas that are obstructed from view by, for example, vehicles and aircraft. The quotation states that “[i]f a human can walk over the area to be surveyed,” its technology can too, *Id.* at 1-6 - 1-7, but the quotation does not explicitly address what happens if a human cannot walk over the area to be surveyed. As a result, Silent Falcon has not provided a basis to find the weakness unreasonable.

The agency next noted a weakness with Silent Falcon’s quotation regarding the solicitation’s requirement to capture 100 percent of the pavement inventory of the pavements that exist in the corresponding network at each installation and to use this data and CIPs to address discrepancies between PAVER™ and RPAD. RFQ at 13; AR, Tab 7, Technical Evaluation at 19-20. The agency determined that Silent Falcon’s

⁵ The Air Boss is Silent Falcon’s team leader. AR, Tab 6, Silent Falcon’s Quotation at 1-1.

quotation did not demonstrate a clear understanding of the requirement. AR, Tab 7, Technical Evaluation at 19-20.

Silent Falcon responds that its quotation demonstrates an approach to utilizing PAVER™, RPAD, and CIPs. Comments at 5. While the protester provides a detailed response outlining its approach to meet the requirement to address discrepancies between PAVER™ and RPAD utilizing real property data, the protester does not cite to any specific portion of its quotation to support these statements. *Id.* at 5-6. We have reviewed the protester's quotation and find that nowhere does it address rectifying discrepancies between the data in PAVER™ and RPAD. As a result, the protester has failed to show that the agency unreasonably concluded that it did not demonstrate a clear understanding of this requirement or clearly address how it would meet it. To the extent the protester contends that its quotation was sufficient, or should have been interpreted differently, we note that agencies are not required to infer information from an inadequately detailed proposal, or to supply information that the protester elected not to provide. *SamKnows Inc., supra* at 5. Therefore, the protester's argument amounts to disagreement, which, without more, is insufficient to establish the agency's evaluation was unreasonable. *Wellspring Worldwide, Inc., B-417282.2 et al., Dec. 20, 2019, 2020 CPD ¶ 10 at 7.*

To the extent Silent Falcon's protest now attempts to more clearly demonstrate its approach, as explained above, our review of the agency's evaluation is limited to the protester's quotation, as submitted. *SamKnows Inc., supra* at 7. Accordingly, we find the agency's conclusions to be reasonable and find the protester's arguments amount to no more than disagreement with the agency's evaluation findings.

The protest is denied.

Edda Emmanuelli Perez
General Counsel