



Decision

Matter of: A-T Solutions, Inc.

File: B-413652.2; B-413652.3; B-413652.4

Date: July 5, 2017

Anuj Vohra, Esq., Nooree Lee, Esq., and Evan R. Sherwood, Esq., Covington & Burling, LLP, for the protester.

Joseph G. Billings, Esq., and Katherine B. Burrows, Esq., Miles & Stockbridge PC, for American Systems Corporation, an intervenor.

Abigail Stokes, Esq., Wendy Iaci, Esq., T. DeShawn Davis, Esq., and Wayne Wright, Esq., Department of the Navy, for the agency.

Scott H. Riback, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that agency unreasonably declined to reopen discussions where, after submission of final proposal revisions, protester's proposal became technically unacceptable because one of its key personnel became unavailable is denied; record shows that agency engaged in two rounds of meaningful discussions and agency, in its discretion, reasonably declined to reopen discussions to allow protester to revise its proposal.

DECISION

A-T Solutions, Inc. (ATS), of Fredericksburg, Virginia, protests its elimination from consideration for the issuance of a task order under request for proposals (RFP) No. N00024-15-3584, issued by the Department of the Navy for operation and training support services related to the analysis and management of identified and recovered explosive hazards. ATS also protests the issuance of a task order for the services to American Systems Corporation, of Chantilly, Virginia. ATS maintains that the Navy unreasonably declined to reopen discussions after ATS advised it of the unavailability of one of its proposed key personnel. ATS also maintains that American Systems failed to keep the agency apprised as to the availability of its personnel.

We deny the protest in part and dismiss it in part.

BACKGROUND

The agency initially issued the solicitation in December 2015, and received proposals in January 2016. The agency engaged in discussions with the offerors and issued a task order to American Systems in August 2016. ATS filed a protest challenging the issuance of that task order on August 30. By letter dated September 14, the agency advised our Office that it intended to take corrective action in response to the protest. On September 15, we dismissed ATS's earlier protest. B-413652, Sept. 15, 2016 (unpublished decision).

On September 29, the agency reopened a second round of discussions with the offerors and solicited and obtained final proposal revisions (FPRs) on February 7, 2017. Subsequent to the submission of FPRs, ATS (the incumbent contractor for the requirement) advised the agency that one of its key employees under the incumbent contract had resigned. After learning of the resignation of ATS's key employee, and in light of the fact that the same individual had been proposed as a key employee under the current solicitation, the agency sent ATS a letter dated April 4, advising ATS that its proposal was no longer considered technically acceptable and would not be further evaluated or considered for award. Agency Report (AR), exh. 6, Contracting Officer's Letter to ATS. After being advised of its elimination from the competition, ATS filed the instant protest with our Office.¹

PROTEST

ATS argues that the agency unreasonably declined to reopen discussions with it in order to afford it an opportunity to substitute another individual for the key employee that is no longer available.

We find no merit to this aspect of ATS's protest. As noted, the agency here already had engaged in two rounds of discussions with the offerors. ATS does not take issue with the substance of those discussions, and there is no basis on this record to suggest that they were not meaningful, equal and adequate. Under these circumstances, it was within the agency's discretion to decline to reopen discussions with ATS in order to allow it to revise its proposal. Pioneering Evolution, LLC, B-412016, B-412016.2, Dec. 8, 2015, 2015 CPD ¶ 385 at 9 (where one of protester's key personnel became unavailable after submission of FPRs and agency already had conducted two rounds of discussions, it was within the agency's discretion to decline to reopen discussions). We therefore deny this aspect of ATS's protest.

¹ The task order issued to American Systems is valued at approximately \$35 million. The acquisition was conducted under the Seaport-E multiple-award contract program. Accordingly, our Office has jurisdiction to consider ATS's protest. 10 U.S.C. § 2304c(e)(1)(B).

ATS also alleges that American Systems may not have all of its key personnel available to perform the task order. We dismiss this aspect of ATS's protest. The record shows that, after elimination of ATS from the competition, there remained two technically acceptable offerors within the competitive range, American Systems and Offeror A. AR, exh. 10, Source Selection Decision, at 104. ATS does not challenge the agency's evaluation of Offeror A. In view of the fact that Offeror A would be in line for award if ATS's allegations concerning American Systems' were correct, we conclude that ATS is not an interested party for purposes of raising its challenge to the evaluation of American Systems' proposal. 4 C.F.R. § 21-0(a)(1); CSC Government Solutions, LLC, B-413064, B-413064.2, Aug. 10, 2016, 2016 CPD ¶ 347 at 12.

The protest is denied in part and dismissed in part.

Susan A. Poling
General Counsel