



Decision

Matter of: J.E.I.

File: B-416749

Date: October 24, 2018

Steven Vodoklys, the protester.
James L. Weiner, Esq., Department of the Interior, for the agency.
Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest that agency misevaluated successful vendor's quotation as acceptable is denied where evaluation was reasonable and consistent with solicitation's evaluation criteria.

DECISION

J.E.I., of Cameron Park, California, a small business, protests the issuance of a Federal Supply Schedule (FSS) order to American Telecom Solutions, L.L.C. (ATS), of Severna Park, Maryland, also a small business, under request for quotations (RFQ) No. RFQ1317493, issued by the Department of the Interior, National Park Service (NPS) for a commercial digital voice recorder base system, software, and licenses for Glacier National Park, at West Glacier Park, Montana. J.E.I. argues that ATS's quotation should have been rejected as unacceptable.

We deny the protest.

BACKGROUND

The RFQ, which was posted on August 13, 2018, using the General Services Administration's e-Buy system, requested quotations from small businesses that hold FSS contracts under Schedule 70 (the general purpose commercial information technology equipment, software, and services schedule). The RFQ stated that quotations had to show that the vendor's recorder system met an accompanying list of "minimum salient characteristics." The RFQ provided lines for vendors to provide prices for individual system components and a total price. RFQ attach. 1 at 1.

The accompanying list of requirements included a general specification that the recorder system had to be compatible with the park's existing "Telex C-Soft" brand dispatching

consoles. Additionally, as relevant to the protest, two of the listed “minimum salient characteristics” were that the base system be “3U rack mount,” and that there had to be a “Color LCD Touch Screen Display (7[-inch] or bigger).” RFQ attach. 1 at 1.

NPS received responses from four vendors, of which the agency’s initial review concluded that three were complete quotations, including ones submitted by J.E.I. and ATS. Memorandum of Law (MOL) at 1. The agency determined that ATS’s quotation had the lowest price and was technically acceptable, so the agency announced the selection of its quotation for award on that basis on August 21. MOL at 2. This protest followed.

PROTEST

J.E.I. argues that the RFQ required vendors “to incorporate a 7[-inch] display into the digital recorder housing,”¹ and that ATS’s quotation was therefore unacceptable because the awardee’s system does not have a 7-inch display screen incorporated into the housing of its recorder system. Protest at 1. According to the protester, the RFQ specification of a “display” meant “an output device for presentation of information in a visual form which is why the J.E.I. solution incorporates the display into the recorder.” Id. The protest alleges that ATS’s equipment uses a separate computer monitor, which J.E.I. argues must be distinguished from the RFQ-required display because a monitor is a “display device, circuitry, casing[,] and power supply[,] and is [a] standalone device.” Id.

NPS explains that the purchase here was conducted consistent with Federal Acquisition Regulation (FAR) § 8.405-1(c), as applicable to an FSS competition valued between the micropurchase threshold and the simplified acquisition threshold, and that the evaluation was consistent with FAR § 13.106. MOL at 1. NPS argues that although the RFQ expressly required the vendor’s product to have a display, there was no requirement for the display to be incorporated into the recorder housing. Accordingly, a quotation offering a separate display was acceptable under the terms of the RFQ.² Contracting Officer’s Statement at 2-3; MOL at 2.

In an FSS purchase valued between the micropurchase threshold and the simplified acquisition threshold, the contracting officer is directed to evaluate quotations as specified in the solicitation. Where non-price factors are evaluated, the contracting officer is instructed to conduct the evaluation in an “efficient and minimally burdensome fashion,” and to retain minimum documentation as a record of the basis for the selection. FAR

¹ J.E.I. states that incorporating the display into the housing resulted in a higher price and required its recorder to have a height of 4U, rather than 3U as specified in the RFQ. Protest at 1.

² NPS notes that an earlier RFQ for the recorder had required the display to use an “integrated monitor,” that the earlier RFQ was canceled, and that the RFQ here was then issued without a requirement for the display to be integrated or incorporated. Contracting Officer’s Statement at 3.

§§ 13.106-2(b)(3), 13.106-3(b). In reviewing an agency's evaluation in an FSS simplified acquisition, this Office will not reevaluate quotations, but will examine the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation. SENTEL Corp., B-407060, B-407060.2, Oct. 26, 2012, 2012 CPD ¶ 309 at 5.

Our review of the record shows that the evaluation of ATS's quotation was reasonable. Specifically, we agree with NPS that the RFQ neither required nor expressly prohibited vendors from offering a system that had the 7-inch display integrated into the recorder. Regardless of whether the quotation specified the display as being integrated into the recorder, the agency's evaluation of ATS's quotation as acceptable was thus reasonable and consistent with the RFQ specifications.³

J.E.I. raises one other issue for which it fails to provide factual support. Specifically, J.E.I. argues that ATS may lack sufficient experience interfacing its recorder to Telex consoles like those at the park, particularly in comparison to J.E.I.'s own claimed experience. The protester provides no factual basis to challenge either the acceptability of ATS's quotation or ATS's responsibility. Protest at 1. Accordingly, to the extent that the issue was intended as a separate ground of protest, we dismiss it for failing to provide a valid factual and legal basis. 4 C.F.R. § 21.5(c) and (f).

The protest is denied.⁴

Thomas H. Armstrong
General Counsel

³ Although NPS disclosed to J.E.I. the brand name item being purchased from ATS, our description here is necessarily vague to avoid disclosing the contents of ATS's quotation that NPS has withheld from the protester as proprietary. Our Office reviewed ATS's quotation in camera.

⁴ In its comments, J.E.I. argues that the MOL revealed that the RFQ specification for the display was ambiguous because ATS and J.E.I. interpreted it differently. Protester's Comments at 1. We cannot regard this ground of protest as timely. As indicated above, the agency removed the express requirement for an integrated display from an earlier RFQ, thereby making it apparent that none was required. As a result, to the extent that there was any ambiguity in the agency's requirement, it was a patent ambiguity that, to be timely, had to be challenged as a solicitation defect before the due date for submission of quotations. 4 C.F.R. § 21.2(a)(1).