



Decision

Matter of: Sanford Federal, Inc.

File: B-417756

Date: September 12, 2019

Daniel Lynam, Sanford Federal, Inc., for the protester.
David W. Altieri, Esq., Department of Veterans Affairs, for the agency.
Heather Self, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest that the Department of Veteran Affairs (VA) improperly rejected protester's lowest-priced proposal under a lowest-priced technically acceptable solicitation set aside for service-disabled veteran-owned small businesses (SDVOSBs) is denied where the protester was not listed as a verified SDVOSB in the VA's database.

DECISION

Sanford Federal, Inc., of Stafford, Virginia, protests its exclusion from the competition under request for proposals (RFP) No. 36C262-19-R-0118, issued by the Department of Veterans Affairs (VA) for temporary janitorial staffing services at the VA's Greater Los Angeles Healthcare System facility. The protester contends that the agency improperly rejected its proposal.

We deny the protest.

BACKGROUND

On June 13, 2019, the VA issued the RFP seeking temporary janitorial services for a base period of 120 days with an option period of an additional 120 days. Request for Dismissal, Exh. 2, RFP, at 1, 6. The VA issued the RFP as a total set-aside for service-disabled veteran-owned small businesses (SDVOSBs), and included the clause found at VA Acquisition Regulation (VAAR) § 852.219-10 Notice of Service-Disabled Veteran-Owned Small Business Set-Aside. *Id.* at 1, 39. This clause provides that offerors must be "verified for ownership and control" pursuant to the VA regulations set forth at 38 C.F.R. part 74 and be listed as verified SDVOSBs in the VA's Vendor Information Pages (VIP) database to meet the definition of an SDVOSB set forth in

VAAR § 852.219-10. Id. at 40. The solicitation further provided that “[o]nly verified **[SDVOSBs]** listed on the [VIP] database at the time of proposal submission and at time of award shall be considered for award and unverified firms will be considered non-responsive and ineligible for award.” Id. at 81 (emphasis in original). The solicitation provided that award would be made to the lowest-priced technically acceptable responsible offeror. Id. at 83.

The VA received nine proposals prior to the June 21 due date established by the solicitation, including one from Sanford. Request for Dismissal, Exh. 1, Contracting Officer’s Statement (COS), at 1. Sanford submitted the lowest-priced proposal. Id. The contracting officer (CO) could not verify that Sanford was an SDVOSB, and considered its proposal ineligible for award. Id. On July 5, the VA made award to DCG Solutions, LLC. Id. Also on July 5, the VA notified Sanford of the award decision, following which Sanford submitted its protest to our Office challenging the rejection of its proposal and subsequent award to DCG.

DISCUSSION

The VA argues that Sanford’s proposal failed to comply with the solicitation requirement set forth in VAAR § 852.219-10 that offerors be listed as verified SDVOSBs in the VIP database, making its proposal ineligible for award. Request for Dismissal at 3-6. The CO represents that she checked the status of offerors in VIP and “found that Sanford Federal, Inc. was not listed by name as a verified SDVOSB.” COS at 1. The CO also searched in VIP for the Dun & Bradstreet (D&B) number included in Sanford’s proposal, and “found a listing for FAR Solution, Inc. as a verified SDVOSB.” Id. The CO further indicates that she searched in the System for Award Management (SAM) by name-- Sanford Federal, Inc.--and D&B number, but did not find a SAM registration for Sanford and again found that the D&B number was registered to FAR Solution, Inc. Id. The CO explains that she did not find information in either VIP or SAM indicating a corporate relationship between Sanford and FAR Solution--e.g., FAR Solution was not listed as “doing business as” Sanford nor was Sanford listed as “formerly known as” FAR Solution. Id.

Sanford explains that it was formerly known as FAR Solution, Inc.; that it has completed a corporate name change with Virginia’s State Corporation Commission; and that on June 11 it submitted an application to have its name change recognized in SAM, but processing of its application is not yet complete. Protest at 2; Response to Request for Dismissal at 1-2. Sanford explains further that it submitted its proposal under its new name, rather than as FAR Solution, Inc., because it believed its June 11 name change request would be completed in SAM prior to the June 21 due date for proposals established by the solicitation. Id. Sanford argues that because the D&B number and the commercial and government entity (CAGE) code included in its proposal were registered to an SDVOSB--FAR Solution, Inc.--the VA should have concluded that Sanford was an eligible SDVOSB, and made award to it as the lowest-priced technically acceptable responsible offeror. Id.

Based on the record here, we find that the agency did not act improperly in rejecting Sanford's proposal. In accordance with the VAAR clause at § 852.219-10, the solicitation established that to be eligible for award an offeror must be listed as a verified SDVOSB in the VA's VIP database at the time of proposal submission and the time of award. RFP at 81. Sanford argues that it was listed in the VA's VIP database at the time it submitted its proposal, but under its prior name--FAR Solution, Inc. Protest at 2. Sanford acknowledges that the D&B number and CAGE code included in its proposal are registered in the VIP database to FAR Solution, Inc.¹ Id.; Response to Request for Dismissal at 2. Moreover, Sanford's proposal does not reference FAR Solution, Inc.; does not mention its name change; does not explain why the D&B number and CAGE code included in its proposal are registered to a different-named entity; and does not include any indication whatsoever that it and FAR Solution, Inc. are the same entity. See Request for Dismissal, Exh. 4, Protester's Proposal.

Offerors bear responsibility for submitting well-written proposals, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows a meaningful review by the procuring agency. URS Group, Inc., B-402820, July 30, 2010, 2010 CPD ¶ 175 at 3-4. Based on the proposal submitted by Sanford, we find unobjectionable the VA's conclusion that Sanford was not a VIP-listed verified SDVOSB, and, therefore, was ineligible for award.

At best, Sanford's inclusion in its proposal of a D&B number and CAGE code that belong to a different-named entity--FAR Solution, Inc.--without any explanation as to the relationship between it and the different-named entity created uncertainty as to the identity of the offeror. This uncertainty rendered Sanford's proposal technically unacceptable, as ambiguity regarding an offeror's identity could result in there being no party bound to perform the obligations of an awarded contract. See e.g., United Valve

¹ Sanford does not represent that it submitted an application to have its name change recognized in VA's VIP database, as it maintains that it has for the SAM database. Protest at 2. Sanford provides that it was advised by the VA that it could not submit a request to update its VIP registration until after it updated its SAM registration. Response to Request for Dismissal at 2. Regardless, the record reflects that Sanford's name change was not recognized in the VA's VIP database prior to the due date for submission of proposals. COS at 1. Accordingly, Sanford's proposal failed to comply with the solicitation's requirement that all offerors be VIP-listed verified SDVOSBs at both the time of proposal submission and the time of award, rendering its proposal ineligible for award. See e.g., Government Contracting Servs., LLC, B-405996, Jan. 17, 2012, 2012 CPD ¶ 28 at 3 (agency properly rejected protester's bid submitted in response to an invitation for bids set-aside for SDVOSBs where the VA had ruled that the protester was not an SDVOSB and that ruling remained in effect until after bid closing, even where the protester ultimately prevailed on its request for reconsideration with the VA and became a certified SDVOSB at a later date).

Co., B-416277, B-416277.2, July 27, 2018, 2018 CPD ¶¶ 268 at 6. The information readily available in a proposal, such as D&B numbers and CAGE codes, must reasonably establish that differently identified entities are in fact the same concern. Raymond Express Int'l, LLC, B-409872.3 et al., Sept. 11, 2015, 2015 CPD ¶¶ 265 at 6. Both CAGE codes and D&B numbers are assigned to discrete business entities for the purpose of identifying dispositively a legal entity for contractual purposes. Id.; URS Group, Inc., supra, at 4. Here, nothing in Sanford's proposal reasonably established that it was the same entity as FAR Solution, Inc., the entity to which the D&B number and CAGE code included in Sanford's proposal were registered in the VA's VIP database. Moreover, to the extent Sanford argues that the VA should have clarified any uncertainty caused by the discrepancy in its proposal, the allegation is without merit. Protest at 2. As a general matter, agencies may, but are not required to, engage in clarifications that give offerors an opportunity to clarify certain aspects of proposals or to resolve minor clerical errors. See e.g., Valkyrie Enterprises, LLC, B-414516, June 30, 2017, 2017 CPD ¶¶ 212 at 5. Agencies have broad discretion as to whether to seek clarifications from offerors, and offerors have no automatic right to clarifications regarding proposals. Id. at 7.

The protest is denied.

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General Counsel