



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Encompass Group LLC

File: B-310940.3

Date: March 17, 2009

H. K. Tyler Jr. for the protester.
David G. Fagan, Esq., Department of Veterans Affairs, for the agency.
Katherine I. Riback, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly issued delivery order under a General Services Administration Federal Supply Schedule contract for mattresses to vendor offering higher priced mattresses which the agency reasonably determined were so superior to the lower priced mattresses offered by the protester as to justify the associated cost premium.

DECISION

Encompass Group LLC of Chicago, Illinois, protests the Department of Veterans Affairs' issuance of a delivery order to Sizewise Rentals, LLC of Kansas City, Missouri, under that firm's General Services Administration (GSA), Federal Supply Schedule (FSS) contract, pursuant to request for quotations (RFQ) No. VA-260-07-RQ-0129, for therapeutic hospital mattresses and mattress pumps. Encompass argues that the agency improperly evaluated its proposed mattress.

We deny the protest.

The RFQ sought quotations from firms holding FSS contracts for therapeutic hospital mattresses and pumps. The RFQ required that vendors provide "descriptive literature and/or brochure information of the mattress specifications and other characteristics specified in the description." RFQ at 3. The RFQ, as amended, provided for the issuance of an order to the vendor whose quotation was determined to represent the best value to the government, with quotations to be evaluated on the basis of the following equally weighted factors: technical, past performance and price. The technical factor consisted of six equally weighted subfactors: ease of use, pressure management, stability and reliability, comfort, warranty, and delivery.

Under the pressure management subfactor, the RFQ stated:

Perimeter foam has indentation load deflection edge support (Foam firmness) of 30 and over: The offeror shall provide literature and written documentation on company letterhead to support this factor. Literature and written documentation must directly address and support this factor.¹

RFP amend. 1, at 3. One of the three criteria stated with regard to the ease of use subfactor was “[h]andles on side for lifting and moving.”² Id. at 2. Vendors were also required to bring onsite one sample of its proposed mattress for a 1-day evaluation period. Id. at 3.

Five vendors submitted quotations. Encompass’s quotation proposed the lowest price and received the third highest technical score. Encompass’s lower technical score was based upon the evaluation of its quotation and sample mattress. The evaluators found that Encompass’s mattress’s perimeter firmness “felt ‘unstable’ [and the] edge [was] ‘mushy’” with no literature included in the quotation that showed the indentation load deflection of the proposed mattress, and that its proposed mattress did not have side handles. Agency Report (AR), exh. 9, Technical Evaluation, at 4. Sizewise submitted the third lowest price and received the highest technical score. In contrast, the mattress to be provided by Sizewise “met all our requirements mostly in an exemplary way.” Id. at 2. The past performance of both offerors was determined to be excellent.³

The agency made a tradeoff analysis of the quotations and determined that Sizewise’s quotation represented the best value to the government. In so doing, the agency compared Sizewise’s proposed mattress to Encompass’s proposed mattress, and determined that Sizewise’s proposed mattress was excellent in almost all respects, and represented a better value than Encompass’s lower priced quotation, given the problems found with respect

¹ This was one of two criteria listed with regard to this subfactor.

² The side handles were “mattress preferred specifications.” RFQ at 4.

³ In a previous protest, Encompass complained among other things about the past performance evaluation. In reviewing the record, our Office found no documentation supporting the past performance evaluation and in an alternate dispute resolution conference the GAO attorney advised the parties of this fact. The agency then took the corrective action of sending out questionnaires to the past performance references listed in the vendors’ quotations and evaluating the responses. Based on this evaluation, the agency rated both Encompass’s and Sizewise’s past performance as excellent.

to Encompass's proposed mattress, including the failure to include side handles and the "poor" perimeter firmness. The order was placed with Sizewise and this protest followed.

Encompass argues that the agency improperly evaluated its proposed mattress and unreasonably placed the order for Sizewise's higher priced mattress.

In the context of an RFQ, where an agency solicits FSS vendors responses and uses an evaluation approach similar to that used in FAR Part 15 negotiated procurements, our Office will review the agency's actions to ensure that the evaluation of vendors' submissions was reasonable and consistent with the solicitation's evaluation criteria. Advanced Tech. Sys., Inc., B-298854; B-298854.2, Dec. 29, 2006, 2007 CPD ¶ 22 at 8. A protester's mere disagreement with the agency's judgment or its belief that its quotation deserved a higher technical rating is not sufficient to establish that the agency acted unreasonably. Id. at 8-9.

Encompass complains that the agency improperly evaluated its mattress's perimeter firmness as "poor." As indicated above, in evaluating the perimeter firmness of Encompass's mattress the agency noted that there was "[n]o literature provided re [initial load deflection], and [the evaluators] 'didn't sense any firmness at [the] edge'" of the sample mattress provided. AR, exh. 9, Technical Evaluation, at 4. The agency noted that the firmness of the perimeter of the mattress was important because "[o]ur patient population is vulnerable to falls since many of them have mobility problems associated with aging or medical conditions such as spinal cord injuries. The perimeter firmness of the mattress is important in reducing the risk of patients slipping or falling since a firm mattress perimeter provides more stability as they enter and exit the beds." AR, exh. 18, Agency Letter to Encompass (Dec. 30, 2008), at 2. Because Encompass failed to provide the required documentation to support this subfactor and the evaluators found that the perimeter of its proposed mattress appeared "mushy," we have no reason to question the agency's evaluation of this subfactor.

Encompass also complains that it should not have been downgraded because its proposed mattress lacked side handles. Encompass primary argument in support of this contention was that Sizewise's mattress with handles was not listed on its FSS contract. However, the agency has provided evidence and Encompass now concedes that Sizewise's proposed mattress is on its FSS contract. Agency E-Mail to GAO (Feb. 19, 2009), attach.; Encompass Letter to GAO (Feb. 24, 2009). Encompass nevertheless argues that handles are ordinarily not provided "for apparent safety reasons," but that its quotation indicated that it would "provide handles if, after training clinical personnel [it was determined] that handles were a requirement." Protester's Comments at 3. However, as the agency advised Encompass, "[t]he lack of handles can increase . . . injuries [to] our staff when they need to reposition or turn mattresses." AR, exh. 18, Agency Letter to Encompass (Sept. 27, 2008), at 1. Given that Encompass did not unequivocally offer the side handles in its quotation

notwithstanding the solicitation's expressed preference for this feature, the agency could reasonably downgrade its proposal under this subfactor.

Encompass finally contends that the agency failed to produce documentation that fully supported its technical evaluation of the mattress proposed by Sizewise or of the past performance evaluation. Inasmuch as no protective order was issued in this case because the protester was not represented by counsel, we reviewed, in camera, the agency's documentation regarding the evaluation of Sizewise's quotation, which contained material that was protected by the agency, and the other evaluation documentation in the file, and have found that this documentation reasonably supports the agency's evaluation conclusions.⁴

The protest is denied.

Gary L. Kepplinger
General Counsel

⁴ Encompass alleges that there were improper discussions between agency personnel and Sizewise in October 2008. The agency denies that any such discussions took place. Sizewise now admits that it has no evidence to support this contention, which we will not consider further.