



Decision

Matter of: TechStart, LLC

File: B-403515

Date: November 10, 2010

Luis Morales for the protester.

Kevin L. Pearson, Esq., Department of Veterans Affairs, for the agency.

Eric M. Ransom, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest is denied where the record shows that contracting agency reasonably determined that protester's quotation was unacceptable due to ambiguity in several material terms.

DECISION

TechStart, LLC, of Colorado Springs, Colorado, protests the award of a contract to ITA International, LLC, of Yorktown, Virginia, by the Department of Veterans Affairs (VA) under request for quotations (RFQ) No. VA-246-10-RQ-0510, for emergency call boxes.

We deny the protest.

The VA issued the RFQ as a combined synopsis/solicitation for commercial items on June 29, 2010, for the procurement of 17 "Call24" emergency call boxes or equivalent, and installation at the VA Medical Center in Richmond, Virginia. In addition to the emergency call boxes, the RFQ required offerors to provide several accessories, including "STROBE AND BLUESTAR LOCATOR LIGHT ASSEMBL[IES]" for each call box. RFQ at 2. The RFQ also stated that quotations were to be submitted as FOB Destination.

Only TechStart and ITA submitted quotations in response to the RFQ. ITA's quotation specified Call24 emergency call boxes, while TechStart's quotation specified IPCallCo call box systems as an equivalent. TechStart's quotation offered the lower price.

TechStart provided an explanatory letter and product literature with its quotation to demonstrate the claimed equivalence of the IPCallCo system. In reviewing the quotation, the agency found that the product literature did not indicate whether strobe and Bluestar locator light assemblies were included in the IPCallCo system. Nor did Techstart indicate whether the assemblies were included in its quoted price. The agency also discovered that, while the quotation stated that it was priced FOB Destination, its price schedule listed shipping and handling charges. Further, the payment terms of TechStart's quotation required a 25 percent initial deposit, which the contracting officer concluded the agency could not properly pay.

Rather than reject TechStart's quotation immediately, according to the agency, the contracting officer made several attempts to contact TechStart for clarification. The agency states that after phone calls made to TechStart on July 22 and July 23 were not returned, the contracting officer contacted IPCallCo directly, and was informed that strobe and Bluestar locator light assemblies were an available option on IPCallCo call boxes. The agency further states that the contracting officer then attempted to contact TechStart via email on July 27, using an email address previously used successfully to contact the firm. The record shows that in this email the contracting officer sought to confirm that the strobe and Bluestar locator light assemblies were included in the quotation at no extra charge, that the shipping and handling charges would be eliminated, and that the 25 percent deposit provision would be removed. The email requested a response by July 28.

When no response was received by July 29, the contracting officer determined that TechStart's quotation was ambiguous and not responsive to the RFQ, and that the award should be made to ITA. The award notice was posted on August 2. This protest followed on August 6.

TechStart asserts that the alleged ambiguities in its quotation were insignificant, and that a reasonable review of the quotation should have led the contracting officer to regard the issues as minor discrepancies. TechStart argues that, even including shipping and handling charges, its quotation was significantly lower in price than the awardee's, that the contracting officer should have realized that the deposit requirement was not applicable to a federal customer, and that the issue of the strobe and Bluestar locator light assemblies was resolved through the contracting officer's communication with IPCallCo. TechStart also alleges that it did not receive telephone calls or messages from the contracting officer on July 22 or 23, and did not receive the contracting officer's July 27 email.

We have reviewed the record here and agree with the contracting officer's conclusion that TechStart's quotation was unacceptable under the RFQ. Even considering the contracting officer's conversation with IPCallCo, the contracting officer could not determine whether TechStart had included the cost of the strobe and Bluestar locator light assemblies in its quotation, or whether the shipping and handling charges stated in the price schedule applied. Additionally, the payment terms set forth in Techstart's quotation explicitly stated that a 25 percent deposit

was required, which the agency could not properly pay. See Federal Acquisition Regulation § 32.202-2 (an agency may not pay more than 15 percent of the contract price as a pre-performance deposit in a commercial item purchase).

With regard to TechStart's argument that it did not receive the July 22 and 23 telephone calls placed by the contracting officer, or the email sent on July 27, we note that the contracting officer had no obligation to seek to resolve the issues with TechStart's quotation. Rather, it is the vendor's responsibility to submit a well-written quotation, with adequately detailed information, that clearly demonstrates compliance with the solicitation requirements. Domain Name Alliance Registry, B-310803.2, Aug. 18, 2008, 2008 CPD ¶ 168 at 10. Here, at the time the contracting officer determined to make the award, on July 29, TechStart's quotation remained ambiguous as to whether the strobe and Bluestar locator light assemblies were included and whether the shipping and handling charges applied, and required a 25 percent pre-performance deposit that the agency was not authorized to pay. Under these circumstances, the contracting officer properly concluded that TechStart's quotation was unacceptable and that award should be made to ITA.

The protest is denied.

Lynn H. Gibson
Acting General Counsel