

Decision

Matter of: Herman Construction Group, Inc.

File: B-408018.2; B-408018.3

Date: May 31, 2013

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DIGEST

Agency reasonably rejected protester's proposal where record shows that the protester failed to submit its price proposal information in a Microsoft Excel (XLS) file format as required by the terms of the solicitation.

DECISION

Herman Construction Group, Inc., of San Diego, California, protests the rejection of its proposal under request for proposals (RFP) No. HSBP1013R0017 issued by the Department of Homeland Security, U.S. Customs and Border Protection, for comprehensive tactical infrastructure maintenance and repair services. The protester contends that the agency improperly rejected its proposal for failure to comply with the solicitation's proposal submission requirements.

We deny the protest.

BACKGROUND

The RFP, posted on the FedBizOpps website on December 22, 2012, as a small business set-aside, anticipated the award of a hybrid cost-plus-fixed-fee and fixed-price contract with a base year and 4 option years for repair and maintenance services along the U.S. southwest border. RFP Amend. No. 5 at 5-7, 53. The RFP's statement of work included the following work categories: (1) fencing and gates; (2) roads and bridges; (3) drainage and grate systems; (4) lighting and electrical systems; and (5) vegetation control and debris removal. *Id.* at 10, 53. Award was to be made on a best value basis considering non-cost factors (including

management/technical, past performance and sample work plan) and price; the non-cost factors combined were significantly more important than price. Id. at 101. Under the price factor, the RFP established that the agency would perform a cost/price realism evaluation to assess, among other things, understanding of the requirements, and a “most probable cost” analysis. Id. at 100-101.

The RFP instructed offerors to submit their proposals electronically, and on paper, and to “provide all required information in the format specified.” Id. at 85. In this regard, the RFP emphasized that electronic price proposals were to be submitted in “XLS file format (at a minimum, version Microsoft Excel 2003)” with “all formulas and calculations.” Id. at 90. More specifically, spreadsheets were to be submitted in “MS Excel” file format, with formulas included. Id. at 85, 90. The RFP explained that the submission of price proposals in the Excel file format was required “to ensure submission of information essential to the understanding and comprehensive evaluation of the offeror’s proposal.” Id. at 85. Offerors were advised that a failure to comply with the RFP’s proposal submission requirements would result in rejection of the firm’s proposal. RFP Amend. No. 4.

Regarding the submission of price proposals, the RFP specifically instructed offerors to include a summary schedule of the total price, including work category prices, and “full back-up documentation for each work category,” including prices for “all resources required to accomplish each work requirement.” Id. at 84, 92. In addition, offerors were requested to provide price breakdowns for individual work requirements identified within the work categories. RFP Amend. No. 5, Question and Answer (Q&A) No. 70.

In order to facilitate the submission of the required price breakdown information, the RFP included a cost template guide as Attachment No. 4 to the RFP. The guide was prepared in an Excel file format and included electronically encoded Excel spreadsheet formulas for the calculation of work category and total prices. The guide linked component prices used to calculate subtotal and total prices. RFP Attach. No. 4. Offerors were advised that the cost template guide “is a recommended guide” and that “[i]f a different format is used, be sure to include all formulas from which to retrace the figures and include the cost breakdown and basis of estimate.” Id., Q&A No. 69.

In addressing the protest, the agency explains that the interactive properties of the Excel electronic application, along with the formulas encoded in “XLS file format,” were needed to allow the evaluators to track prices to back-up documentation, make adjustments to calculation formulas and proposed prices, and automatically update displayed prices affected by an adjustment. Contracting Officer’s Statement of Facts at 3; Agency Memorandum of Law at 6.

Nineteen proposals were received by the RFP’s closing date. Based on an initial review, the agency rejected six proposals, including Herman Construction’s, for

failing to comply with the RFP's requirement for submission of the price proposal in Excel file format. In the protester's case, the agency rejected the proposal because its spreadsheets were not submitted in "XLS file format;" rather, they were submitted in a portable document format ("PDF"). This protest followed.

DISCUSSION

Herman Construction argues that it complied with the solicitation's submission requirements and that the agency improperly rejected its proposal. In this regard, the protester contends that its PDF files should have been acceptable to the agency because they were based on the cost template guide provided in the RFP. The agency, however, contends that the RFP did not merely require preparation of price proposal spreadsheets based on the cost template guide identified in the RFP's Attachment No. 4, but also required offerors to submit their price proposal spreadsheets as Microsoft Excel files.

Our review of the record leads us to conclude that the agency properly rejected the protester's proposal for failing to comply with the RFP's mandatory proposal submission format requirement. An offeror bears the burden of submitting an adequately written proposal in the format established by the solicitation, including all information that was requested or necessary for its proposal to be evaluated. See HealthStar VA, PLLC, B-299737, June 22, 2007, 2007 CPD ¶ 114 at 2; Client Network Servs., Inc., B-297994, Apr. 28, 2006, 2006 CPD ¶ 79 at 6. An agency is not required to adapt its evaluation to comply with an offeror's submission; even if a reformatting effort by the offeror or the agency could be accomplished to allow for evaluation, the question is not what the agency could possibly do to cure a noncompliant submission, but rather, what it was required to do. See Mathews Assocs., Inc., B-299305, Mar. 5, 2007, 2007 CPD ¶ 47 at 3. Where proposal submission requirements are clear, an agency is not required to assume the risks of potential disruption to its procurement in order to permit an offeror to cure a defective proposal submission initiated by its failure to comply with mandatory solicitation requirements. Id.

The protester argues that PDF files were an appropriate substitute for Excel files because the solicitation (in Q&A No. 69) advised offerors that they could use a different "format" for the cost template guide (Attachment No. 4 to the RFP) as long as all formulas were provided. We disagree. The agency's answer in Q&A No. 69 cannot reasonably be interpreted to have relaxed the RFP's mandatory requirement regarding the submission of electronic price proposals in "XLS file format (at a minimum, version Microsoft Excel 2003)." RFP at 90. Rather, the question and answer, read consistently with the RFP's repeated requirements for Excel documentation, can only reasonably be understood to refer to the physical layout of

the cost template guide at Attachment No. 4.¹ Our Office resolves disputes concerning the meaning of a solicitation term by reading the solicitation as a whole and in a manner that gives effect to all its provisions; to be reasonable, an interpretation of a solicitation must be consistent with such a reading. See Raytheon Co., B-404998, July 25, 2011, 2011 CPD ¶ 232 at 17.²

Moreover, we do not agree that the agency was required to evaluate Herman Construction's proposal notwithstanding the protester's failure to comply with the above-specified solicitation requirement. Although the protester asserts that the paper version of its proposal (and its electronic PDF version) provided pricing documentation and formulas to allow for evaluation, the agency reasonably explains that evaluation of the protester's proposal without the required Excel-encoded submission would be unduly burdensome.

For instance, the agency reports a substantial amount of time would be needed to either reformat the submission into Excel file format (to the extent that the evaluators could even do so), or to manually adjust and add prices from up to 50 spreadsheets submitted by the protester for the fence and gates work category alone. Contracting Officer's Statement of Facts at 5; Memorandum of Law at 6.

¹ Given the unequivocal requirement for the submission of price proposals in XLS file format using, at a minimum, Microsoft Excel version 2003, the protester's interpretation of the solicitation's file format submission requirements, assuming it to be reasonable, would, at best, create an alleged patent ambiguity in the solicitation, which must be protested prior to the closing time for receipt of proposals to be considered timely. 4 C.F.R. § 21.2(a)(1) (2013); Rehal Int'l Transp., B-401090, Apr. 7, 2009, 2009 CPD ¶ 81 at 3. Similarly, to the extent the protester contends the RFP requirement for a "complete" paper copy of the proposal is inconsistent with the requirement to use the Excel application in the electronic copy (presumably because a paper copy cannot provide Excel's interactive properties), the contention is untimely, since this alleged solicitation impropriety, as well, would have been a patent ambiguity, and it was first raised here after the closing time for the receipt of proposals. Id.

² We also find no merit in the protester's contentions that the RFP did not specifically prohibit the submission of spreadsheets in PDF file format, and did not state that electronic spreadsheet submissions had to have the interactive properties available through the use of Excel. The RFP clearly stated the requirement for spreadsheets to be submitted using the Excel application and file format.

Our review of the record supports the reasonableness of the agency's decision to reject Herman Construction's proposal due to its failure to follow the solicitation's clear formatting requirements. See Mathews Assocs., Inc., supra.

The protest is denied.

Susan A. Poling
General Counsel