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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Veteran Technologists Corporation

File: B-409628

Date: June 25, 2014

John P. McDade for the protester.

Krishon Gill-Edmond, Esq., Department of Veterans Affairs, for the agency.

Lois Hanshaw, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency's exclusion of protester's proposal from further consideration for failure to acknowledge amendments is denied where the record shows that the agency's actions were consistent with the solicitation which required the contractor's signature on all amendments.

DECISION

Veterans Technologists Corp (Vet Tech), of Aberdeen, Maryland, protests its exclusion from consideration under request for proposals (RFP) No. VA119A-13-R-0210 issued by the Department of Veterans Affairs for general management and business support services. Vet Tech argues that its exclusion for failing to sign and return amendments is improper because the firm acknowledged the amendments in its proposal.

We deny the protest.

The RFP, which was set aside for veteran-owned small business concerns, provided for the award of multiple indefinite-delivery/indefinite-quantity (ID/IQ) contracts each with an ordering period of five years. RFP at 1, 8. The RFP required that each offeror's proposal consist of five volumes: (1) technical capability; (2) performance risk; (3) staffing plan; (4) price; and (5) SF 1449, amendments, and other documents.¹ Id. at 66. With regard to the SF 1449 and

¹ Awards were to be made on a best-value basis considering technical capability, performance risk, staffing plan, and price. The first two factors were equally

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amendments, the RFP required that each one be signed by an authorized official of the prime contractor using an actual or “wet” signature rather than a typed signature. Id. at 69.

The RFP was amended five times. All five amendments responded to questions from offerors, and three of the amendments (A00001, A00002, and A00004) revised the solicitation. The front page of each amendment indicated that the contractor “is required to sign” the amendment and return it to the issuing office. Agency Report (AR), Tabs 2-6.

Vet Tech submitted its proposal by the solicitation closing date. Vet Tech’s proposal included signed copies of SF 1449 and amendment A00002, but the firm failed to submit signed copies of the remaining amendments. Instead, Vet Tech’s proposal included statements that Vet Tech “fully understands the requirements” and “accepts the Terms, Conditions, and Assumptions identified in Solicitation VA119A-13-R30210 and its associated Amendments.” AR, Tab 3.1, Vet Tech Proposal, Vol 5, at 3, 8. As noted above, the RFP here has a slightly different number: VA119A-13-R-0210.²

Vet Tech’s proposal was excluded from the competition because the firm failed to submit signed copies of four of the amendments, as required by the solicitation. AR, Tab 4.1b, Notification of Exclusion.

Vet Tech timely filed an agency-level protest, which was denied. AR, Tab 3.2a, Agency-Level Protest; Tab 4.3, Agency Decision. Thereafter, the protester timely filed its protest with our Office.

The protester alleges that its proposal was improperly removed from consideration despite the firm’s acknowledgement of the amendments to the solicitation. Protest at 2. Specifically, Vet Tech asserts that its proposal statements that it understands and accepts the terms of the RFP and all amendments, though not in compliance with the terms of the solicitation, constituted adequate acknowledgement of the various amendments.

In reviewing protests challenging the evaluation of proposals, we examine the record to determine whether the agency’s judgment was reasonable and in accord with the RFP evaluation criteria. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1

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important and, together, were more important than the staffing plan; the non-price factors, combined, were significantly more important than price. RFP at 73-74.

² It is not clear from the record whether Vet Tech’s reference to a different solicitation number was a typographical error or intentional.

CPD ¶ 223 at 4. An offeror has the burden of submitting an adequately written proposal, and it runs the risk that its proposal will be evaluated unfavorably when it fails to do so. Recon Optical, Inc., B-310436, B-310436.2, Dec. 27, 2007, 2008 CPD ¶ 10 at 6.

As noted above, the RFP required that each amendment be signed by the offeror and included in the offeror's proposal. Vet Tech signed and returned only one amendment, rather than five. Indeed, at least one of the unsigned amendments materially changed the requirements of the solicitation.³ Vet Tech's general statement in its proposal that it accepts the terms, conditions, and assumptions in all amendments is unavailing since the firm's acceptance of the terms was tied to an incorrect solicitation number than the one at issue here. In our view, the company's submission of only one signed amendment (amendment A00002) created an ambiguity as to whether Vet Tech intended to be bound to the remaining amendments. This ambiguity was not eliminated by Vet Tech's general statement of acceptance, which referenced an incorrect solicitation number. Where, as here, an offeror fails to submit information required by the RFP, we cannot find that the agency acted unlawfully when it refused to further consider that offeror for award.⁴ See, e.g., LS3, Inc., B-401948.11, July 21, 2010, 2010 CPD ¶ 168 at 2; MG Mako, Inc., B-404758, Apr. 28, 2011, 2011 CPD ¶ 88 at 2.

The protest is denied.

Susan A. Poling
General Counsel

³ For example, amendment A00001 added an annual basis requirement to the previously established requirement that offerors submit proposals for at least 50 percent of the task order proposal requests for which they are eligible or risk being "off-ramped" via termination for convenience. RFP amend. 0001, at 9.

⁴ The agency has represented to our Office that if discussions are held, the protester's initial proposal will be evaluated in accordance with the Federal Acquisition Regulations and the solicitation. Agency Response to GAO Question, June 11, 2014.