



GAO

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

Comptroller General
of the United States

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: SBSI, Inc.

File: B-410923

Date: March 20, 2015

David A. Edelstein, Esq., Asmar, Schor & McKenna, PLLC, for the protester.
LtC Gregory J. Fike, Esq., Defense Intelligence Agency, for the agency.
Gary R. Allen, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that an agency improperly rejected a proposal because it included identifying information is denied where the solicitation explicitly required that such information be redacted from proposals.

DECISION

Strategic Business Solutions, Inc. (SBSI), of Reston, Virginia, protests the rejection of its proposal under request for proposals (RFP) No. HHM402-14-R-0005,¹ issued by the Defense Intelligence Agency, for support services to help establish internal controls; demonstrate and sustain audit readiness; and support a wide range of activities, such as financial, resource, and project management. The protester argues that the agency improperly determined that SBSI's proposal was unacceptable, based on its failure to comply with the solicitation's requirement that identifying information be redacted from proposals.

We deny the protest.

¹ This procurement follows a previous award of multiple contracts under the agency's Solutions for Intelligence Financial Management (SIFM) program, and is therefore sometimes referred to as the SIFM II RFP in the record. SBSI was awarded a contract and issued task orders under the prior SIFM procurement.

The RFP, which was set aside for small business concerns, provided for the award of multiple indefinite-delivery/indefinite-quantity (ID/IQ) contracts to obtain contractor support services, with a 1-year base ordering period and four 1-year options. The RFP established a lifetime ceiling value of \$75 million, and provided for task orders to be issued to meet the RFP's statement of objectives. Contracting Officer's (CO) Statement (COS) at 1.

The RFP provided extensive instructions for preparing proposals, which were to be submitted in three volumes.² In a table describing the contents to be included in each proposal volume, the RFP required offerors to submit "7 ORIGINALS--WRITTEN VERSION-REDACTED" for the second and third evaluation factors (technical/management approach and past performance). RFP at 110. Although the table did not explain what information was to be redacted, this was later clarified in an amendment to the RFP.

Amendment 4 to the RFP set out various questions and answers regarding the solicitation. Question 22 sought guidance concerning the information that was to be redacted in proposals. RFP amend. 4 at 5, Question 22. The agency responded that redactions should include all information identifying the offeror, any subcontractors, or their respective personnel by name. Information identifying the offeror, or any subcontractor, as an incumbent on the first SIFM contract vehicle also needed to be redacted. Id.

The agency received [deleted] proposals by the solicitation closing date, including SBSI's proposal. COS at 4. Upon review, the agency discovered that SBSI had failed to redact information concerning its own identity, its personnel, the identities of its subcontractors, and their personnel. Id. at 5. According to the CO, SBSI's proposal contained over 100 separate instances where SBSI failed to redact its proposal in accordance with the RFP requirements. Id. SBSI's proposal stated that it took no exceptions to the RFP, and acknowledged all of the RFP amendments, including amendments 2 and 4. Agency Report (AR), Tab 5.1, SBSI Proposal, at 1.

SBSI's proposal was excluded from the competition based on the firm's failure to redact the identifying information, as required by the RFP. AR, Tab 6.2, Notification of Exclusion. SBSI received a written debriefing on December 1, 2014, and this protest followed.

The protester argues that its proposal was improperly removed from consideration. Specifically, SBSI asserts that its failure to redact the identifying information did not involve its proposal's acceptability. Rather, the protester argues that its failure to

² The three volumes were to address four evaluation factors, as follows: Volume I--(1) security; (2) technical capability/management approach (which included three subfactors); Volume II--(3) past performance; and Volume III--(4) price. RFP at 109.

comply with this requirement may have made its proposal “nonresponsive,” but that it was only a minor informality that the CO should have waived. Protest at 1, 6-8. The protester contends that the agency’s conclusion that SBSI’s proposal was unacceptable was based on an undisclosed evaluation criterion.³ Id. at 9.

In response to the protest, the agency states that it required identifying information to be redacted in order to ensure an unbiased evaluation, so that no offeror would gain an unfair competitive advantage. CO’s Statement at 6. The agency contends, on this basis, that SBSI’s failure to comply with the RFP’s redaction requirement was not a waivable minor formality, but a material failure to comply with the clear requirements of the RFP. AR, Memorandum of Law, at 5. We agree.

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 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. Furthermore, in a negotiated procurement, a proposal that fails to conform to the material terms and conditions of the solicitation is considered unacceptable and may not form the basis for award. Wolverine Services LLC, B-409906.3, B-409906.5, Oct. 14, 2014, 2014 CPD ¶ 325 at 3-4.

While the protester makes much of the fact that the RFP did not spell out the consequences that would result from a failure to redact identifying information, we disagree with the protester’s premise that such notice was required. We also disagree with SBSI’s characterization of its failure to redact information as an issue of “responsiveness,” that constituted a “minor informality” and just an “error in form that could have been easily corrected.”⁴ Protest at 1; Protester’s Comments at 1.

³ The protester raises numerous arguments concerning the agency’s rejection of its proposal. For example, SBSI argues that the agency “could have allowed SBSI to correct its redactions,” and that it was “immaterial that some evaluators had already seen SBSI’s name” in its unredacted proposal during the review process. Protest at 5, 7. Although we have considered all of the protester’s arguments, we do not address them all. We find none of SBSI’s arguments provide a basis to question the agency’s actions or to sustain the protest.

⁴ With respect to the alleged minor nature of the protester’s failure to redact identifying information, we note that the CO identified over 100 instances in SBSI’s proposal containing this information. CO’s Statement at 5. We also note that SBSI admits that it purposefully did not redact information that identified it as a contractor for the first SIFM contract because it was a major part of SBSI’s experience. AR, Tab 3.1, Declaration of the President and CEO of SBSI, at 137-38.

Here, the RFP contained an explicit, mandatory requirement that the offeror submit seven hand-delivered copies of its proposal that redacted any information identifying the offeror, any subcontractors, and their respective personnel by name, as well as any information identifying the status of the offeror or any subcontractor as an incumbent on the SIFM I contract vehicle. RFP amend. 2, at 3; RFP amend. 4, Question 22, at 5. Where 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. 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. Accordingly, we find reasonable the agency's determination that SBSI's proposal was unacceptable for this reason. See Wolverine Services LLC, supra.

We deny the protest.

Susan A. Poling
General Counsel