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Decision

Matter of: Dell Federal Systems, L.P.

File: B-404996; B-404996.2

Date: July 22, 2011

James J. McCullough, Esq., and Brian M. Stanford, Esq., Fried, Frank, Harris, Shriver & Jacobson LLP, for the protester.

David S. Black, Esq., and Oliya S. Zamaray, Esq., Holland & Knight LLP, for GTSI Corp., the intervenor.

Erica S. Beardsley, Esq., Department of the Army, for the agency.

Paul N. Wengert, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably concluded that the handheld device component of the protester's biometric collection system did not meet the solicitation's requirements for fingerprint collection and therefore the proposal was technically unacceptable where the fingerprint collection feature was not integrated and was smaller in size than what was required by the solicitation.

DECISION

Dell Federal Systems, L.P., of Round Rock, Texas, protests the issuance of a delivery order under the Information Technology Enterprise Solutions 2--Hardware (ITES2-H) contract to GTSI Corp., of Herndon, Virginia, by the Department of the Army, under delivery order request for proposals (DORFP) No. W91QUZ-07-0008-0038 for biometric collection systems, known as the "biometric automated toolset-Army" (BAT-A). Dell argues that its delivery order proposal was improperly rejected as unacceptable.

We deny the protest.

BACKGROUND

The Army issued the DORFP on December 21, 2010 to six vendors that held ITES2-H multiple-award indefinite-delivery/indefinite-quantity contracts, including Dell and

GTSI. Contracting Officer's Statement at 2-3. The DORFP contemplated the issuance of a single fixed-price delivery order for BAT-A equipment,¹ with cost reimbursement terms for supporting travel. DORFP at 2. The period of performance was from the date of delivery order issuance through August 8, 2012. Id.

The BAT-A consists of three components that are used to collect biometric information such as fingerprints, facial images, and iris scans for identification and verification. These components are an enrollment kit, a handheld device, and computer servers. Id. at 1. For each component, the solicitation's performance work statement (PWS) identified threshold requirements that offerors were required to meet. PWS app. A. With regard to the handheld device, which is at issue in the protest, the PWS required that the device meet the following hardware requirement for fingerprint collection:

Integrated capability to collect rolled, flat and [a] minimum of two slapped fingerprints, with a minimum of 500 ppi [pixels per inch] fingerprint capability.

PWS app. A, at 18.² In addition, for rolled fingerprint collection, the handheld device was required to meet all Federal Bureau of Investigation (FBI) "Appendix F and SAP 45 [subject acquisition profile 45] specifications." PWS app. A, at 22. As relevant here, these specifications established minimum dimensions for the fingerprint platen of 1.6 inches (width) by 1.5 inches (height). FBI app. F, at F-18; see also Agency Report (AR), Tab 3, Memorandum for Record, at 3. As used here, the platen is the flat surface on the handheld device upon which fingers are placed when taking fingerprints.

The DORFP directed vendors to submit a technical proposal describing how the offeror's approach would meet the requirements of the PWS, including the hardware components of the handheld device. Offerors were also required to submit seven samples of their handheld device. DORFP, Proposal Submission Instructions and Evaluation Criteria, at 2. The DORFP stated that the evaluation would be conducted using a two-phase evaluation scheme. In the first phase, the agency would select up to three offerors who submitted the lowest-priced, technically acceptable proposals. In the second phase, the handheld devices of these three offerors would be tested, and one offeror would be selected for award on a best value basis, with technical considerations evaluated as more important than price. Id. at 3-5.

¹ The DORFP contemplated the purchase of 200 handheld devices, with options for additional equipment such as spare parts. DORFP at 2.

² In notable contrast, the DORFP explicitly allowed offerors to propose a smart card reader for the handheld device that was "connectable," rather than integrated. PWS app. A, at 18.

The Army received proposals from four vendors, including Dell and GTSI. AR, Tab 18, Source Selection Decision, at 3. Dell's initial proposal, which was submitted on January 27, 2011, included a [DELETED] handheld device that Dell admitted did not meet the requirement to provide integrated capability to collect fingerprints. AR, Tab 8, Dell Initial Technical Proposal, at 19. However, Dell stated that the manufacturer of the handheld device was scheduled to make available a fully compliant device in the first half of 2011, in time for award. Id.

The Army conducted "communications" with offerors, including Dell. As relevant here, the Army advised Dell that its technical proposal had been assigned a deficiency because the handheld device did not meet the requirement to provide integrated capability to collect fingerprints at the time of proposal submission. AR, Tab 10, Communications with Dell, at 2. The Army requested that Dell and the other vendors submit revised proposals by February 10.³ Id. On February 10, Dell submitted a revised proposal and an alternate proposal⁴; however, only the evaluation of the alternate proposal is at issue in this protest.⁵

Dell's alternate proposal was based on a [DELETED] handheld device. Dell stated that this device exceeded the Army's requirement to provide integrated capability to collect fingerprints by having a built-in fingerprint sensor, as well as an external fingerprint scanner to increase efficiency. AR, Tab 16, Dell Alternate Proposal, at 20. Dell noted that "when integrated with the [external fingerprint scanner]," the handheld device would be "fully compliant with all Appendix F and SAP 45 criteria that [are] called for in this requirement." Id. at 34-35.

Dell's alternate proposal did not identify the dimensions of the fingerprint platen for either the built-in or external fingerprint scanner. However, the Army measured the platens on one of Dell's sample devices, and determined that the built-in platen was [DELETED] inches by [DELETED] inches,⁶ which was smaller than the size requirement of 1.6 inches by 1.5 inches established by the FBI Appendix F and SAP

³ Prior to submitting revised proposals, Dell requested that the Army revise the PWS to relax fingerprint collection requirements. The Army declined to do so, providing Dell with the FBI Appendix F and SAP 45 specifications for fingerprint platen size and further advising that "the size of the fingerprint platen is critical" to the agency's ability to collect fingerprints. AR, Tab 12, E-mail from Army to Dell, at 1.

⁴ Dell also submitted samples of the handheld devices as required by the DORFP.

⁵ The revised proposal continued to feature the [DELETED] handheld device and was found to be technically unacceptable. AR, Tab 18, Source Selection Decision, at 4. As noted above, Dell has not protested the evaluation of this proposal.

⁶ Dell contends that the built-in platen measures [DELETED] inches by [DELETED] inches. Protest at 4.

45 specifications.⁷ AR, Tab 3, Memorandum for Record, at 3. The Army noted that although the fingerprint platen of the external scanner met the minimum dimension requirement, the external scanner did not meet the requirement of providing integrated capability for collecting fingerprints because it had to be connected by a peripheral Ethernet cable. Id. Accordingly, Dell's alternate proposal was found to be technically unacceptable and was not considered in phase two of the evaluation. Id.; AR, Tab 17, Dell Technical Evaluation, at 1; AR, Tab 18, Source Selection Decision, at 7.

At the conclusion of phase two of the evaluation, the Army selected GTSI for issuance of the delivery order.⁸ Supplemental AR at 11; AR, Tab 18, at 10. On April 4, Dell was notified that its proposal was found to be technically unacceptable, and, after receiving a debriefing, Dell timely filed a protest with our Office on April 15.

DISCUSSION

Dell protests the agency's determination that its handheld device was technically unacceptable. Specifically, Dell challenges the agency's conclusions that the device does not meet the FBI dimensional requirement or the integrated capability requirement of the DORFP.

In reviewing a protest against the propriety of an evaluation, it is not our role to independently evaluate proposals and substitute our judgment for that of the contracting agency. Barents Group, L.L.C., B-276082, B-276082.2, May 9, 1997, 97-1 CPD ¶ 164 at 6. Rather, we will review an evaluation to ensure that it was reasonable and consistent with the evaluation criteria in the solicitation and applicable procurement statutes and regulations. Id. A protester's mere disagreement with the evaluation does not show it lacked a reasonable basis. DKW Commc'ns, Inc.; Financial & Realty Servs., LLC, B-400117 et al., July 31, 2008, 2009 CPD ¶ 30 at 3.

Dell concedes that its built-in fingerprint scanner is smaller than, and therefore does not meet, the dimensional requirement set forth in the FBI Appendix F and SAP 45

⁷ Two documents in the contemporaneous record erroneously describe the minimum dimensions required by the FBI Appendix F and SAP 45 specifications as 5.1 inches by 5.1 inches. See AR, Tab 17, Dell Technical Evaluation, at 1; AR, Tab 18, Source Selection Decision, at 7. The contracting officer acknowledges this mistake, but responds to the protest using the correct FBI dimensional requirement. Contracting Officer's Statement at 7 n.1. The protester does not contend that the errors in the contemporaneous record are material to the evaluation.

⁸ The price of the delivery order issued to GTSI was \$159,437,631. The price of Dell's alternate proposal was \$137,430,923. AR, Tab 18, Source Selection Decision, at 5.

specifications, as required by the DORFP. However, Dell asserts that its proposal should nonetheless have been found technically acceptable because the external scanner meets the dimensional requirement. Protest at 4-5; Dell's Comments and Supp. Protest at 4-10.

The Army responds that although the external scanner met the dimensional requirement, it did not meet the solicitation's requirement that hardware for fingerprint collection provide integrated capability. AR at 11. Accordingly, the agency argues, it properly rejected Dell's proposal.

We agree with the agency. The DORFP here specifically set forth "hardware requirements" for fingerprint collection that unambiguously required the handheld device to provide "[i]ntegrated capability" to collect fingerprints. PWS app. A, at 18. Dell's external scanner is not integrated with the rest of the handheld device, but rather must be connected by an external Ethernet cable. Accordingly, it is a hardware device that does not provide integrated capability as required by the DORFP.⁹

Dell contends that externally connected hardware components are permitted. It cites to a PWS provision allowing "fingerprint biometric capture device[s]" to be connected through a "plug interface." Dell's Comments and Supp. Protest at 6; PWS app. A, at 25. Dell also argues that the agency confirmed, prior to issuance of the DORFP, that "extra plug-in hardware" would be acceptable. See AR, Tab 5, Questions and Answers on Draft PWS, Dec. 7, 2010, at 3.

We find these arguments unpersuasive. First, the fingerprint biometric capture device is not part of the handheld device, but rather is part of the enrollment kit, which is an entirely different component of the BAT-A. The fact that the DORFP permits "plug interface" for the enrollment kit does not mean that the same type of interface is permitted for the handheld device.

Second, the agency's statement that extra plug-in hardware would be acceptable was made in response to a question concerning a draft solicitation. The agency's answer to the question was given prior to the issuance of the DORFP and was not incorporated into the DORFP. It is well-settled that comments on a draft solicitation do not control the meaning of the solicitation when it is subsequently issued. See McNeil Technologies, Inc., B-278904.2, Apr. 2, 1998, 98-1 CPD ¶ 96 at 5-6 (agency comments on draft solicitation were not probative of meaning of subsequently issued solicitation). Here, when the DORFP was issued subsequently, it provided only for one item of extra plug-in hardware for the handheld device, a "connectable" smart

⁹ Although Dell's built-in fingerprint scanner meets the integrated capability requirement, as noted above, the fingerprint platen of the scanner does not meet the dimensional requirement set forth elsewhere in the DORFP.

card reader. PWS app. A, at 18. In contrast, the DORFP expressly provided that the hardware for fingerprint collection had to be “integrated.” Id. It is the language of the DORFP that the evaluators properly treated as controlling, not the earlier comments on the draft PWS.

Dell also argues that the requirements for integrated capability and minimum dimensions are “free-standing” requirements. Dell’s Comments and Supp. Protest at 7. Since its built-in fingerprint scanner satisfies one requirement and the external scanner satisfies the other, Dell argues, the handheld device must be found technically acceptable “as a single unit.” Id. at 7-10; see also Dell’s Supp. Comments at 2-3.

The DORFP does not support Dell’s interpretation. It is fundamental that solicitations must be read as a whole and in a manner that gives effect to all provisions of the solicitation. Dataproducts New England, Inc., et al., B-246149.3, et al., Feb. 26, 1992, 92-1 CPD ¶ 231 at 8-9 (rejection of protester’s proposal was proper where agency reasonably read separate solicitation provisions together); see also Contingency Mgmt. Group, LLC; IAP Worldwide Servs., Inc., B-309752, et al., Oct. 5, 2007, 2008 CPD ¶ 83 at 22 (in evaluating proposals, agency properly read together solicitation provision regarding particular personnel and separate provision regarding conditions of performance). As discussed above, the agency properly interpreted the DORFP as requiring the hardware components of the handheld device to both provide integrated capability and to meet the dimensional requirement. Since Dell’s handheld device did not contain a fingerprint scanner that met both requirements, the agency properly found the proposal to be technically unacceptable.¹⁰

The protest is denied.

Lynn H. Gibson
General Counsel

¹⁰ Dell also argues that the Army misevaluated prices, and conducted a de facto sole source procurement. Dell’s Comments and Supp. Protest at 13-16; Dell’s Supp. Comments at 9-16. Since Dell’s proposal was technically unacceptable, Dell is not an interested party to protest the evaluation of prices. Allied Tech. Group, Inc., B-402135, B-402135.2, Jan. 21, 2010, 2010 CPD ¶ 152 at 11-12. Dell also has not shown that the specifications were so restrictive that the procurement amounted to an unjustified de facto sole source procurement, and, in any event, Dell is untimely to challenge those specifications now.