



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Crystal Clear Technologies, Inc.

File: B-409266.2

Date: May 28, 2014

Marcus Carter, Government Contractor Services, for the protester.
Kacie A. Haberly, Esq., General Services Administration, for the agency.
Gary R. Allen, Esq., Glenn G. Wolcott, Esq., and Sharon L. Larkin, Esq., Office of
the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging rejection of offer for certain hospital products is denied where offeror failed to furnish a sufficient description of the products.

DECISION

Crystal Clear Technologies, Inc., of St. Petersburg, Florida, protests the rejection of its offer under solicitation No. 3QSA-JB-100001-B – REFRESH #9, issued by the General Services Administration (GSA) under its Multiple Award Schedule (MAS) program for certain hospital products. The solicitation sought offers using GSA's Federal Supply Schedule (FSS) Schedule 71, Furniture, Special Item Number (SIN) 71-318, Patient Service Systems, identified as medical head-walls or patient service columns for general patient care. The protester argues that the agency erred in rejecting its offer based on the firm's failure to provide a sufficient description of its product. The protester also contends that the agency improperly rejected its proposal based upon Crystal Clear's failure to submit accurate and complete Commercial Sales Practice Formats (CSP-1s).

We deny the protest.

BACKGROUND

The solicitation contemplated the award of multiple 5-year fixed-price, indefinite-delivery, indefinite-quantity contracts under GSA's FSS MAS program for medical head-walls or patient service columns for general patient care under FSS Schedule 71, SIN 71-318. Solicitation at 48. Medical head-walls are wall-mounted systems that deliver medical gases and electrical power requirements to manage the needs

of patients. They allow monitors, supplies, and other patient service equipment to be placed within easy reach of medical staff without taking up floor space. Patient service columns are freestanding columns that serve the same or similar function. Contracting Officer's (CO) Statement at 2. The solicitation, citing GSA Schedule 71, SIN 71-318, noted that medical head-walls or patient service columns can include such items as duplex outlets, night light, nurse call, telephone service or other electrical/communication devices, air and oxygen valves, blood pressure unit, overbed wall lights, and air purification equipment. Solicitation at 48.

The solicitation instructed offerors that proposals must include "[a] technical description of the items being offered in sufficient detail to evaluate compliance with the requirements of the solicitation." Solicitation, Federal Acquisition Regulation (FAR) § 52.212-1(b)(4), Instructions to Offerors, at 122. The solicitation also required offerors to provide "descriptive catalogs and/or price lists" with the SIN written next to each offered item in the catalog or price list. Solicitation, Clause 552.212-70, at 85.

Crystal Clear originally submitted a proposal on September 20, 2013. CO Statement at 1. As part of its submission, Crystal Clear stated that it was offering a rail mounting system that enabled medical devices to be mounted to hospital walls. AE, Tab 3, Cover Letter to Sept. 20, 2013 Crystal Clear Proposal, at 18. This proposal included general price lists and a product brochure from the manufacturer, Paladin Medical Products, showing pictures of the product. Id. at 1-11. The proposal, however, failed to provide any technical or detailed description of each item it proposed, and failed to identify how the product pictured corresponded with those in the price list.

The CO rejected Crystal Clear's proposal on November 5, 2013. CO Statement at 1. Crystal Clear filed a protest with our Office (B-409266), which it withdrew on November 21, presumably because Crystal Clear was reinstated to the competition. Id. at 3. Subsequent to the withdrawal, but prior to submitting a new proposal, Crystal Clear submitted questions and documents to the CO for review. Id. at 4.

After review of the new documents submitted by Crystal Clear, the CO expressed concern that the rail mounting kits Crystal Clear proposed did not fit within the scope of SIN 71-318. AR, Tab 6, CO E-mail to Crystal Clear, Dec. 2, 2013, at 21. The CO also asked Crystal Clear to explain how the offered rail mounting kits fully complied with the items described in SIN 71-318. Id.

Crystal Clear responded by submitting the same brochure and price list it had previously submitted,¹ and repeating its explanation that its proposed product was a mounting system that allowed the items described in the SIN to be efficiently

¹ The only difference in the price list was that Crystal Clear included a column entitled SIN and wrote 71-318 beside each item. AR, Tab 6 at 23-24.

mounted and extracted from medical head-walls. Id., Crystal Clear Letter, Dec. 3, 2013, at 32.

On December 11, 2013, Crystal Clear submitted a new proposal, including the same brochure and price list that it had previously provided. AR, Tab 7, Crystal Clear Dec. 11 Proposal. Throughout the latter part of January and early February 2014, the CO had further communications with Crystal Clear, and the protester submitted several proposal revisions, culminating in a final proposal revision on February 6. The final proposal did not make any changes or additions to the brochure and price list sections that were previously submitted. AR, Tab 9, Crystal Clear Final Proposal.

On February 20, the CO rejected Crystal Clear's proposal, in part, because it did not provide a technical description of the items being offered in sufficient detail to allow the agency to determine whether they complied with the requirements of the solicitation as products under SIN 71-318. AR, Tab 8, Agency Rejection Letter, at 2. This protest followed.

DISCUSSION

The protester challenges the agency's rejection of its offer on the basis that the firm failed to provide a sufficient description of its product. Protest at 2-4. The protester also contends that the agency improperly rejected its proposal due to Crystal Clear's failure to submit accurate and complete Commercial Sales Practice Formats (CSP-1s). Id. at 5-6.

With respect to the protester's first argument, the agency contends that the solicitation required offerors to provide a sufficient description of the items being offered, but the proposal did not clearly indicate which products it was offering or their prices. CO Statement at 8; Solicitation at 85 and 122.

Contracting agencies have broad discretion to determine their needs and the best way to meet them. Crewzers Fire Crew Transport, Inc., B-402530, B-402530.2, May 17, 2010, 2010 CPD ¶ 117 at 3; USA Fabrics, Inc., B-295737, B-295737.2, Apr. 19, 2005, 2005 CPD ¶ 82 at 4. With respect to evaluation, where, as here, an agency issues a solicitation under GSA's Federal Supply Schedule and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. Digital Solutions, Inc., B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4; DEI Consulting, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2.

Here, the record supports the agency's evaluation of Crystal Clear's proposal as unacceptable. As noted above, the solicitation sought SIN 71-318 patient service systems, which are defined as "[m]edical head-walls or patient service columns for

general patient use.” Solicitation at 48. The solicitation instructed offerors to provide a technical description of the items being offered in sufficient detail, with descriptive catalogs and/or price lists so that the agency could evaluate compliance with the requirements. Solicitation, Clause 552.212-70, at 85; FAR § 52.212-1, at 122.

Crystal Clear submitted a proposal for a rail kit that did not appear to fully address all of the requirements of SIN 71-318. The CO specifically expressed concerns that the information Crystal Clear provided had not shown how its proposed rail mounting system fully complied with the scope of the items described in SIN 71-318. Rather than include any detail as to how the product in its proposal met the description of being a medical head-wall or patient service column, Crystal Clear simply stated that its product was an extension of a medical head-wall that allowed the items referenced in SIN 71-318 to be mounted to the wall. Furthermore, Crystal Clear’s proposal, apart from brochure pictures, provided little discussion of which items it proposed or how the products in the brochure satisfied all of the specified requirements. Finally, even though the protester submitted a general price list, it did not identify which products pictured in the brochure corresponded with those in the price list.

Based on the requirements in the solicitation and the information presented in Crystal Clear’s proposal, we have no reason to conclude that the agency was unreasonable in rejecting it. The protester’s disagreement with the agency’s judgment does render the evaluation unreasonable. DEI Consulting, supra.

Because we find that the CO had a reasonable basis for finding that the protester’s proposal was unacceptable on the scope issue, we do not address the protester’s argument that the agency improperly rejected Crystal Clear’s proposal because of inaccurate and incomplete CSP-1s. We also note that in pursuing this protest, Crystal Clear has made various allegations of bias by agency officials. Government officials are presumed to act in good faith, and a protester’s contention that contracting officials are motivated by bias or bad faith thus must be supported by convincing proof; we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Career Innovations, LLC, B-404377.4, May 24, 2011, 2011 CPD ¶ 111 at 7-8. Here, nothing in the record provides a basis to sustain the protest based on Crystal Clear’s allegations of bias.

The protest is denied.

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General Counsel