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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: American Floor Consultants & Installations, Inc.

File: B-294934; B-294934.2

Date: December 16, 2004

Clayton W. King for the protester.
Eric Kattner, Department of the Air Force, for the agency.
Mary G. Curcio, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where, in response to agency request that protester clarify whether its quotation was based on the brand name or an "equal" product, protester provided evidence that it was a certified installer of a product other than the brand name, agency reasonably concluded that protester's quotation was based on providing an equal product, and therefore properly rejected the quotation for failure to include required descriptive literature for that product.

DECISION

American Floor Consultants & Installations, Inc. protests the rejection of its quotation in response to request for quotations (RFQ) No. FA4887-04-T-0036, issued by the Department of the Air Force for installation of an epoxy floor system in hangar 840 at Luke Air Force Base.

We deny the protest.

The RFQ, issued under simplified acquisition procedures, specified installation of Garland Floor Company products, or equal. Vendors quoting an "equal" product were required to submit descriptive literature to establish that the product was equivalent to the specified brand-name product. RFQ at 4. A purchase order was to be issued to the vendor that quoted the lowest price and met or exceeded the RFQ requirements.

American Floor submitted its quotation by the September 27, 2004 deadline, but the quotation did not specify whether it was based on the brand name or an equal product. On September 29, the Air Force sent an e-mail requesting that American

Floor "clarify what you're offering." Agency Report (AR), Tab 10. The protester responded with an e-mail stating that "this is the certified installer letter for your records. I will be sending over to you the product equals once they have been forwarded to me by the manufacturer." Id. The e-mail included a copy of an August 27, 2004 notice from Micor Company, Inc. stating that: "To: Whom it May Concern . . . The intent of this letter is to state that American Floor Co., . . . is a certified installer of the Micor Company product line." On September 30, the Air Force notified American Floor that it was rejecting the firm's quotation because it was based on an equal product but did not include the required descriptive literature; the Air Force therefore could not determine whether it was equivalent to the brand-name product. Thereafter, the Air Force issued a purchase order to Techniquex Coating Systems.

American Floor raises a number of challenges to the procurement. In reviewing a protest against an allegedly improper evaluation under simplified acquisition procedures, we examine the record to ensure that the agency reasonably exercised its discretion and evaluated quotations in accordance with the terms of the solicitation. West Coast Research Corp., B-281359, B-281359.2, Feb. 1, 1999, 99-1 CPD ¶ 27 at 3. We have reviewed the record and find no basis to question the agency's actions. We address the protester's principal arguments below.

American Floor asserts that the rejection of its quotation was improper because it in fact was based on the brand name, not an equal product, and therefore was not required to include descriptive literature. American Floor asserts that it submitted the information from Micor only to demonstrate that it was a certified installer of flooring, not to demonstrate that it intended to use Micor products.

The agency reasonably rejected the protester's quotation here. In response to the agency's request that American Floor clarify what it was quoting, the protester did not state that it was offering the brand name. Instead, American Floor submitted a statement from Micor that the protester was a certified installer of Micor products, and a statement that it would submit the "product equals" when they were received from the manufacturer. The agency reasonably interpreted this response to its specific question as indicating that American Floor was quoting on an "equal" Micor product rather than the brand name; indeed, we think this is the only reasonable interpretation of the protester's response. While the protester asserts that it submitted the letter from Micor only to demonstrate its qualifications, not to suggest that it would not use the brand name products, this simply was not clear from its response. We conclude that the Air Force reasonably determined that the protester's quotation was based on an equal product, and that the agency therefore properly rejected the quotation for failure to include the required descriptive literature demonstrating the equivalence of its quoted product to the brand-name product.

American Floor also complains, based on an e-mail in which Techniquex clarified certain items in its quotation, that the agency improperly held discussions with only Techniquex, and should have conducted similar discussions with American Floor.

The Air Force responds that it did not hold discussions with any vendor that responded to the RFQ. In this regard, the Air Force reports that, while Techniquex was requested to and did clarify certain items in its quotation--as permitted under Federal Acquisition Regulation (FAR) §§ 15.306(a), 13.106-2(b)(1)(2)--Techniquex was not requested or permitted to revise its quotation. Discussions occur when a procuring agency provides a vendor with the opportunity to revise or modify its quotation. Priority One Servs., Inc., B-288836, B-288836.2, Dec. 17, 2001, 2002 CPD ¶ 79 at 5. Thus, there is no basis for finding that the Air Force engaged in discussions with Techniquex.[1]

The protest is denied.

Anthony H. Gamboa
General Counsel

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[1] American Floor asserts that Techniquex Coating Systems was not eligible to receive a purchase order because it was not registered in the Central Contractor Registration data base prior to award, as required by FAR § 4.1102(a). Since the Air Force properly found that American Floor submitted an unacceptable quotation, and there were other vendors eligible for award, American Floor is not an interested party to challenge the award to Techniquex. Sterling Servs., Inc., B-291625, B-291626, Jan. 14, 2003, 2003 CPD ¶ 26 at 2.