



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: GEA Engineering, P.C.

File: B-405318

Date: October 13, 2011

Steven M. Gamelsky, and Kinza Elahi, GEA Engineering, P.C., for the protester.
Debra J. Talley, Esq., Department of the Army, for the agency.
Noah B. Bleicher, Esq., Jonathan L. Kang, Esq., and Sharon L. Larkin, Esq., Office of
the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly found protester's proposal non-compliant where the proposal
exceeded the page limitation set forth in the solicitation.

DECISION

GEA Engineering, P.C., of Nanuet, New York, protests the rejection of its proposal submitted in response to solicitation No. FY11.2, issued by the Department of the Army under the Department of Defense (DOD) Small Business Innovation Research (SBIR) program for a water conditioning system. GEA asserts that the agency improperly rejected its proposal for exceeding the 20-page limitation imposed by the solicitation.

We deny the protest.

BACKGROUND

The SBIR program is conducted pursuant to the Small Business Innovation Development Act, 15 U.S.C. § 638 (2006), which requires certain federal agencies to reserve a portion of their research and development funds for awards to small businesses. As part of its SBIR program, DOD periodically issues SBIR solicitations listing the research topics for which it will consider SBIR program admission.

The solicitation at issue was published in April 2011 and sought Phase I proposals for various topics, including topic No. A11-112, entitled "Water Conditioning System for

Sinks and Sanitation Centers.”¹ Solicitation §§ 1.2, 1.5.c, 8.0; Agency Report (AR), exh. 7, Army SBIR Proposal Submission Instructions, at 75-77. The objective of this topic was to develop technologies to reduce the amount of water used, and the amount of wastewater generated, in the field. AR, exh. 7, Army SBIR Proposal Submission Instructions, at 75.

The solicitation provided that proposals were to contain four sections (proposal cover sheets, technical proposals, cost proposals, and a company commercialization report) and contained instructions for proposal content, formatting, and page limitations. Solicitation at §§ 3.0, 6.1. Additionally, the solicitation directed offerors to read and follow the SBIR submission instructions that applied to the relevant DOD components, e.g., as relevant here, the instructions for the Army SBIR program. Solicitation at § 8.0. With regard to the supplemental proposal instructions, the solicitation advised offerors to “[r]ead and follow these instructions carefully to help avoid administrative rejection of your proposal.” Id. (emphasis in original); see also AR, exh. 7, Army SBIR Proposal Submission Instructions, at 9.

With regard to page limitations, the solicitation stated that proposals for Army topics, like the one at issue here, were limited to 20 pages, including the cover sheets, but not including the cost proposal and company commercialization report. Solicitation at §§ 3.2, 3.4. The Army SBIR proposal submission instructions, which were incorporated by reference to the solicitation, state as follows:

PHASE I PROPOSAL SUBMISSION

Army Phase I Proposals have a 20-page limit including the Proposal Cover Sheets (pages 1 and 2, added electronically by the DoD submission site—Offerors are instructed to NOT leave blank pages or duplicate the electronically generated cover pages THIS WILL COUNT AGAINST THE 20 PAGE LIMIT), as well as the Technical Proposal (beginning on page 3, and including, but not limited to: table of contents, pages left blank intentionally by you, references, letters of support, appendices, and all attachments). Therefore, a Technical Proposal of up to 18 pages in length counts towards the overall 20-page limit. ONLY the Cost Proposal and the Company Commercialization

¹ The SBIR program has three phases: Phase I, to determine the scientific, technical, and commercial merit of ideas; Phase II, to perform the principal research and development effort resulting in a well-defined, deliverable prototype; and Phase III, during which the small business must obtain private and public funding to develop the prototype into a viable commercial product for sale to military and/or private sector markets. See Photonics Optics Tech, Inc., B-402967, July 28, 2010, 2010 CPD ¶ 173 at 1-2.

Report² (CCR) are excluded from the 20-pages. As instructed in Section 3.5d of [the solicitation], the CCR is generated by the submission website, based on information provided by you through the “Company Commercialization Report” tool. Army Phase I proposals submitted over 20-pages will be deemed NON-COMPLIANT and will not be evaluated . . . Since proposals are required to be submitted [in] Portable Document Format (PDF), it is the responsibility of those submitting the proposal to ensure any PDF conversion is accurate and does not cause the proposal to exceed the 20-page limit.

AR, exh. 7, Army SBIR Proposal Submission Instructions, at 1, 9 (emphasis in original); Solicitation at § 8.0.

The solicitation also instructed offerors to prepare proposal cover sheets by populating required fields in the cover sheet section on the DOD SBIR electronic submission website identified in the solicitation. Solicitation at § 3.5.a. The website would then generate a two-page cover sheet with the information entered by the offeror. Although the cover sheet section included a signature field, the solicitation stated that signatures were “not required on the cover sheets . . . at the time of submission for electronic submission.”³ Solicitation at § 6.1 (emphasis in original). Further, as discussed above, offerors were advised that the cover sheets would count against the 20 page limit, and were specifically instructed not to duplicate the system-generated cover sheets. AR, exh. 7, Army SBIR Proposal Submission Instructions, at 1, 9; see Solicitation at §§ 3.5.a, 3.6.

Offerors had to submit proposals electronically to the website identified in the solicitation by 6:00 a.m. on June 29, 2011. Solicitation at §§ 6.1, 6.2.

GEA filled out the fields on the cover sheet section of the website, but noticed that two signature fields were blank, and that there was no way to enter signatures through the website. Protest at 2. The firm “assumed that populating [the signature] fields was a requirement and that not providing signatures would disqualify [GEA’s]

² With regard to the company commercialization report, the solicitation instructed offerors that they could “include at the end of the [r]eport additional, explanatory material (no more than five (5) pages) relating to the firm’s record of commercializing its prior SBIR . . . projects.” Solicitation at § 3.5.d. Although offerors could provide this information through written narratives on the SBIR submission website, the website did not allow for documents to be uploaded. See AR, exh. 9, DOD SBIR FY11.2 Forensic, at 2.

³ In addition, the electronic cover sheets submitted by GEA were marked with a statement indicating that signatures were not required at the time of submission. AR, exh. 9, DOD SBIR FY11.2 Forensic, at 2; see AR, exh. 2, GEA Proposal, at 2 of 2.

proposal from being considered by the Army.”⁴ Id. Therefore, GEA printed and signed the two-page cover sheets and included this duplicate version as part of the technical approach of the firm’s proposal. Protest at 2. The website did not provide a way for GEA to delete the system-generated cover sheets, thereby leaving both the system-generated version and GEA’s printed version as part of the proposal. Protest at 3.

Additionally, GEA attempted to include in its company commercialization report a brochure about a water treatment system the firm developed. Protest at 2; see Solicitation at § 3.5.d. As discussed above, the company commercialization report section of the website included space for additional explanatory information to be added, but it did not provide for documents to be uploaded. Solicitation at § 3.5.d; see AR, exh. 9, DOD SBIR FY11.2 Forensic, at 2. Instead of adding text from the brochure to the relevant section on the website, GEA submitted the two-page brochure with its proposal. Protest at 2.

On June 28, GEA uploaded its SBIR proposal to the submission website. Contracting Officer’s Statement at 2. The agency reviewed the firm’s proposal and concluded that it was four pages over the limit (including the duplicate, signed cover sheets and the two-page brochure).⁵ AR at 2-3. Consequently, the Army informed GEA by letter dated July 1 that its proposal was over the 20-page limitation, and, as such, it would not be evaluated for award. AR, exh. 10, Army SBIR Program Manager Letter Informing GEA of Non-Compliance, at 1. GEA subsequently filed this protest.

⁴ The night before proposals were due, GEA emailed the SBIR help desk, seeking clarification on whether to submit a printed and signed version of the cover sheets. Protest at 2; see Protest, attach. 2, GEA Correspondence with SBIR Help Desk, June 28-29, 2011, at 1. A help desk employee responded an hour before the submission deadline explaining that signatures were not required. Protest, attach. 2, GEA Correspondence with SBIR Help Desk, June 28-29, 2011, at 1.

⁵ According to the Army, the page breakdown of GEA’s uploaded proposal was as follows: page 1, security markings (one page); pages 2 and 3, system generated cover sheets (two pages); pages 4 and 5, duplicate cover sheets submitted by GEA (two pages); pages 6-23, technical objectives, work plan, relationship to future R&D, commercialization strategy, key personnel, and schematics (18 pages); pages 24 and 25, cost proposal (two pages); pages 26 and 27, GEA brochure (two pages); pages 28 and 29, repeat of cost proposal (two pages); pages 30-32, company commercialization report (three pages). AR, exh. 4, Email Correspondence between the Army SBIR Operations Manager and GEA President, at 3-4.

DISCUSSION

GEA protests the agency's rejection of its proposal for exceeding the page limitation. Protest at 3. GEA contends that the additional proposal pages were the result of unclear solicitation instructions and a "partially defective" SBIR submission website. Protest at 2; Comments, Aug. 21, 2011, at 1.

Offerors are required to prepare their proposals in the format established by the solicitation, including page and other limitations. Client Network Servs., Inc., B-297994, April 28, 2006, 2006 CPD ¶ 79 at 6. If the solicitation provides that a proposal exceeding a specified page limit will be rejected and an offeror does not protest those terms, then rejection of a proposal that exceeds the limit is unobjectionable. See Macfadden & Assocs., Inc., B-275502, Feb. 27, 1997, 97-1 CPD ¶ 88 at 2.

Here, the solicitation's terms regarding the cover sheets and the company commercialization report were unambiguous.⁶ Contrary to the protester's assertion that "[n]owhere in the instructions does it say that a signature is not required on the form," Comments, Aug. 21, 2011, at 1, the solicitation and cover sheets clearly stated that signatures were not required at the time offerors submitted proposals. Solicitation at § 6.1; AR, exh. 9, DOD SBIR FY11.2 Forensic, at 1-2; see AR, exh. 2, GEA Proposal, at 2 of 2. The protester also ignored explicit solicitation instructions warning offerors not to duplicate the electronically-generated cover sheets, and that duplicated cover sheets would count against the page limit. AR, exh. 7, Army SBIR Proposal Submission Instructions, at 1, 9; see Solicitation at §§ 3.2, 3.4.

Additionally, with regard to the company commercialization report section, the solicitation permitted offerors to include additional explanation at the end of the electronically-generated report. Solicitation at § 3.5.d. However, uploading documents for the report was neither authorized by the solicitation, nor provided for in the relevant section of the website. See AR, exh. 9, DOD SBIR FY11.2 Forensic, at 2.

In sum, the protester has not presented any evidence to substantiate that the website was defective. See Protest at 1. Instead, the record shows that the protester disregarded clear solicitation instructions when it duplicated the cover sheets and uploaded documents to support its company commercialization report. As a result, the agency appropriately counted the duplicate cover sheets and two-page brochure against GEA's proposal's page count. Because the inclusion of these extra pages

⁶ We note that GEA did not contest the terms of the solicitation. See Mathews Assocs., Inc., B-299305, March 5, 2007, 2007 CPD ¶ 47 at 3.

resulted in the protester's proposal exceeding the solicitation's 20-page limit, the agency properly rejected GEA's proposal.

The protest is denied.

Lynn H. Gibson
General Counsel