



G A O

Accountability * Integrity * Reliability

**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

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: C2G Ltd. Company

File: B-406093; B-406093.3

Date: February 8, 2012

Bryant S. Banes, Esq., and Bill W. Wooley, Esq., Neel, Hooper & Banes, P.C., for the protester.

Captain Michael E. Murray, Department of the Army, for the agency.

Pedro E. Briones, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that an agency failed to provide equal information to offerors is denied where the initial solicitation was posted on the Federal Business Opportunities website, where the solicitation advised that amendments to the solicitation (including the agency's responses to offerors' questions) would be posted on the Army's Single Face to Industry website, and where all offerors were provided the same information through that website.

DECISION

C2G Ltd. Company of Goose Creek, South Carolina, protests the award of a contract to Shiloh Services, Inc., of Cedar Park, Texas, under request for proposals No. W91247-11-R-0012 (RFP) issued by the Department of the Army for transportation services.

We deny the protest.

BACKGROUND

The RFP, which was posted on July 3, 2011, on the Federal Business Opportunities (FedBizOpps) and the Army's Single Face to Industry (ASFI) website, provided for the award of a fixed price contract for transportation motor pool (TMP) services at Fort Bragg and Pope Field, North Carolina for a base year and 4 option years. RFP at 1, 23; Schedule; RFP amend. 1, Questions & Answers, at 11; see Contracting Officer's (CO) Statement at 3. Offerors were advised that award would be made on a lowest-priced, technically acceptable basis considering the following factors:

technical capability, past performance, and price. RFP at 37. The RFP instructed offerors to propose, among other things fixed prices for various contract line items, as well as to provide a labor price matrix. Id. at 34-35; Schedule.

A detailed performance work statement (PWS) was provided describing various required TMP services, which included scheduled and unscheduled transportation of returning and deploying service members, civilians, and baggage. PWS at 3-4. In this regard, the contractor would provide scheduled and unscheduled/on-call installation shuttle bus services, and the PWS included bus routes and schedules in that regard. Id. at 16. The PWS states that the agency may add or delete bus routes to meet mission requirements. Id. The contractor was also required to respond immediately to emergency situations, including those arising outside normal duty hours, and to maintain an adequate workforce to provide drivers within a 200 mile radius of the installation within a 2-hour notice. Id. at 5, 17. The PWS advised offerors that the services were required 24 hours per day, every day of the year, including federal holidays. Id. at 17. The RFP also provided historical usage information, such as among other things, shuttle bus data, passenger count totals, and troop and baggage workload data. RFP, attach. 2., Workload Data.

The RFP was amended on July 29 to respond to offerors' questions.¹ RFP amend. 1, Questions & Answers, at 1-16. Among other things, the agency informed offerors that the government could not provide total mileage per shuttle bus route and that the contract price would not be adjusted to account for any additions and deletions in routes. See id. at 3, 8-9, 14. Other agency responses included that the contractor would not be providing unofficial transportation; that historical data concerning numbers of calls received by shift was not available; and that additional workload data, such as overtime or number of trips outside a 100 mile radius, was not available. See id. at 1, 3, 7. The amendment also revised various parts of the PWS and extended the due date for receipt of proposals to August 5. RFP amend. 1, at 1.

As relevant here, C2G submitted additional questions to the CO on August 2 requesting further workload data and estimates, which C2G believed the agency had overlooked or not addressed in the agency's earlier responses to questions. See Agency Report (AR), Tab 8, C2G's Email Questions to CO, at 1-2. Specifically, C2G asked for the estimated workload data for non-official travel, noting that, according to C2G, the term "official" appeared in the incumbent contract but not in the RFP's PWS. Id. In this respect, C2G asked whether the contractor would operate as an unofficial base taxi and asked for estimated workload increases in that regard. See

¹ The RFP advised offerors that amendments would be posted on the ASFI website and that it was the responsibility of each offeror to review the website for notice of amendments, updates, or changes to current information. See RFP at 31.

id. C2G also requested an estimate for the number and magnitude of unscheduled movements and the percentage of transportation requests that have occurred outside of normal duty hours. Id.

The CO responded to C2G by email and posted C2G's additional questions and the agency's answers on the ASFI website on August 3. Id.; CO's Statement at 4. In response to C2G's request for workload data for non-official travel, the CO referred C2G to the agency's earlier answer that the contractor would not be required to provide unofficial travel, and stated that all personnel and baggage movement was for government personnel. AR, Tab 11, Response to C2G Questions, at 1, citing RFP amend. 1, Questions & Answers, at 1. The CO added that the TMP contractor does not operate as a base taxi and that the agency had no historical data in that regard. Id. at 2. Finally, the CO responded that the agency could not predict the number and magnitude of unscheduled movement because Fort Bragg is a strategic response installation from which personnel are prepared to deploy at any time. See id. at 1.

The agency received proposals on August 5 from eight offerors, including C2G and Shiloh. CO's Statement at 5-6; AR, Tab 19, Source Selection Decision, at 8-10. Shiloh proposed \$12,266,143, and submitted the lowest-priced offer; C2G proposed \$15,228,895, and submitted the third lowest-priced offer. AR, Tab 19, Source Selection Decision, at 8-10.

Award was made to Shiloh on October 21, and this protest followed a debriefing.²

DISCUSSION

The protester contends that the agency's August 3 responses to C2G's questions increased and changed the required services, including, according to the protester, passenger and baggage movements; continuous, daily operational requirements; and shuttle routes, but alleges that those questions and answers were not shared with other offerors. Protest at 2. According to the protester, the changed requirements caused C2G to substantially raise its proposed price, and would have caused other offerors to do so as well, had they been advised of the changes. Id. The protester disputes the agency's assertion that it posted C2G's questions, and the agency's answers, on FedBizOps or ASFI before the due date for receipt of proposals, and submitted a declaration stating that it had monitored the websites

² C2G does not protest the agency's evaluation of proposals. C2G in its comments raised a supplemental protest ground (B-406093.3), asserting that Shiloh and another offeror had failed to propose fixed prices. C2G has withdrawn this protest allegation.

between August 3 and August 5, and saw no additional amendments or notices posted. See Comments at 3; Attach. 1, Vice President's Declaration, at 1.

We find C2G's protest to be without merit. The record shows, as the agency states, that C2G's August 2 questions and the agency's August 3 answers were posted on the AFSI's website on August 3.³ See AR 13-15; Tab 13, ASFI Solicitation View for W91247-11-R-0012 at 1-2.

Moreover, even were we to accept the protester's contention (which we do not) that the agency failed to publicize C2G's additional questions and answers, the protester has not shown that it was prejudiced in this regard. Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest, even if deficiencies in the procurement are found. See, e.g., Special Servs., B-402613.2, B-402613.3, July 21, 2010, 2010 CPD ¶ 169 at 4.

Here, as the agency notes, C2G's additional questions, and the agency's answers thereto, are virtually identical to the earlier questions and answers posted by the agency on July 29 and, contrary to the protester's assertion, the agency's answers did not increase or change the scope of the PWS requirement. See AR at 18-23; compare AR, Tab 11, Response to C2G Questions, at 1-2 with RFP amend. 1, Questions & Answers, at 1, 3, 7, 9, 14. In fact, the only changes that the protester specifically references in its protest and C2G's questions are the purported changes between the PWS and the previous contract. Protest at 3; AR, Tab 8, C2G's additional questions to CO, at 2-3.

The protest is denied.

Lynn H. Gibson
General Counsel

³ We also question the timeliness of these protest allegations, given the solicitation requirement that offerors monitor the ASFI website and the protester's assertion that it continually monitored the website during the relevant timeframe. Our Bid Protest Regulations require that a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals be filed before that time. 4 C.F.R. § 21.2(a)(1) (2011). Although C2G alleges that it only learned during its debriefing that C2G's additional questions were not submitted to all offerors, it should have known before the closing time for receipt of proposals whether the agency had posted answers to its questions.