Decision

Matter of: Encompass Group, LLC

File: B-410148

Date: October 28, 2014

H. K. Tyler Jr., Encompass Group, LLC, for the protester.
Bridget E. Grant, Esq., Department of Veterans Affairs, for the agency.
Mary G. Curcio, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that in procurement to establish blanket purchase agreement for jackets agency did not provide estimates of each combination of style, color, and size is denied where agency did not have historical information or any other reasonable way to estimate the number of jackets it may need in each combination.

DECISION

Encompass, LLC, of McDonough, Georgia, protests the terms of request for quotations (RFQ) No. VA119-14-Q-0121, issued by the Department of Veterans Affairs (VA) for warm up-jackets.

We deny the protest.

The RFQ, issued on June 21, 2014, contemplates the establishment of multiple-award Blanket Purchase Agreements (BPA), with a period of 60 months, for warm-up jackets to be worn by hospital personnel over scrubs. The solicitation, issued pursuant to Federal Acquisition Regulation (FAR) § 8.405-3, seeks quotations from vendors holding VA Federal Supply Schedule (FSS) Contract 65 II A. RFQ at 1, 5. Vendors are required to hold the FSS contract by the time quotations are due, Id. at 18, and all items must be on the FSS by the time of award. Id. at 20.

The RFQ provides that vendors will be required to provide snap-front warm-up jackets that are available in two styles (V-neck and round neck), three colors (jade green, misty green and ceil blue), and in sizes ranging from extra small to five extra large. RFQ at 6. The RFQ includes a total of 54 line items, which are combinations
of the required styles, colors, and sizes. Id. at 11-15. For example, line item 1 is for a round neck, extra small, jade green jacket. Id. at 11.

Vendors were to be selected for establishment of a BPA on a lowest-priced, technically acceptable basis. Although the RFQ included an overall estimate of 11,306 jackets each year, there are no quantity estimates for each item (combination of style, color and size), and the price evaluation is based on the unit prices for one of each line item. RFQ at 4, 11-15.

Encompass protests that the RFQ does not accurately describe the agency’s needs because it does not provide the estimated quantities of each combination of style, color, and size required, such as, for example, the number of crew neck, jade green, extra small jackets. According to Encompass, it is incapable of providing its best pricing without this information because it needs to know how much material and labor will be required to manufacture each jacket.

Ordering activities are permitted to establish BPAs under FSS contracts to fill repetitive needs for supplies or services. FAR § 8.405-3(a)(1). BPAs established pursuant to FAR § 8.405-3 are required to address estimated quantities. FAR § 8.405-3(a)(4). In this regard, we have previously found that when an agency solicits on the basis of estimated quantities, the agency must base its estimates on the best information available. See, e.g., Dellew Corp., B-407159, Nov. 16, 2012, 2012 CPD ¶ 341 at 3 (requirements contract).

Here, the agency reports that, beyond the overall estimate of 11,306 warm-up jackets of all types per year, it has no further information available regarding the estimated number of jackets it will need in different styles, sizes, and colors.

Ordering activities are permitted to establish BPAs under FSS contracts to fill repetitive needs for supplies or services. FAR § 8.405-3(a)(1). BPAs established pursuant to FAR § 8.405-3 are required to address estimated quantities. FAR § 8.405-3(a)(4). In this regard, we have previously found that when an agency solicits on the basis of estimated quantities, the agency must base its estimates on the best information available. See, e.g., Dellew Corp., B-407159, Nov. 16, 2012, 2012 CPD ¶ 341 at 3 (requirements contract).

Here, the agency reports that, beyond the overall estimate of 11,306 warm-up jackets of all types per year, it has no further information available regarding the estimated number of jackets it will need in different styles, sizes, and colors.

Agency Response to GAO Question, Sept. 15. The agency specifically states that its historical information regarding orders for these items “doesn’t go to that level of detail.” Agency Response to GAO Question, Sept. 25. Since Encompass has made no showing that the agency in fact has historical information or any other reasonable way to estimate the number of jackets it may need in each style, size and color combination, we have no basis to sustain Encompass’s protest in this regard.

Encompass next asserts that the VA held a virtual vendors day to which it was not invited. Encompass speculates that vendors at the meeting were provided unique information to which it was not privy.

In response, the agency explains that prior to issuing the RFQ, it conducted market research to determine if there were vendors available that could meet its needs, and on what basis to issue the RFQ (small business set-aside, schedule holders, Federal Prison Industries, etc.). Contracting Officer’s Statement (COS) at 2. The agency first issued a request for information (RFI) on the Federal Business Opportunities (FedBizOpps) and GSA e-Buy websites, and received 22 responses,
including one from the protester. Id. at 4. Subsequently, in order to determine whether small business concerns could meet its needs, the agency invited those vendors that responded to the RFI and that were small business concerns that either manufactured the jackets or would provide jackets manufactured by a small business concern in the United States, to participate in a vendors day at which the vendor provided samples. Market Research Memo at 2, 4. Encompass was not invited because in its response to the RFI it indicated that it was not a manufacturer of the jackets and would not obtain them from a United States small business manufacturer. Encompass Response to RFI. Ultimately, the agency posted the RFQ on GSA’s e-Buy system, without restricting offerors to small business concerns.

We are not aware of any requirement for an agency to include all vendors in every aspect of its market research. Here, the agency was trying to determine the availability of small businesses to meet its needs. Since Encompass had indicated that it was not a manufacturer of the jackets, and would not obtain the jackets from a United States small business manufacturer, it was reasonable for the agency to not invite Encompass to its virtual vendor day held for the purpose of deciding whether this requirement could be set aside for small businesses. In any case, given that all of the agency’s requirements were posted in the solicitation, it does not appear that Encompass suffered any prejudice by not participating in the virtual meeting. See Paragon TEC, Inc., B-405384, Oct. 25, 2011, 2011 CPD ¶ 240 at 9 (competitive prejudice is an essential element of a viable protest).

Finally, Encompass asserts that no vendor can meet the agency’s requirements. Encompass, however, has not specified what requirements cannot be met. Here, the agency issued an RFI, held a vendor day, and called vendors to confirm that they could meet the solicitation requirements. Agency Report (AR) at 8-9. As a result of this research the agency determined that there are at least three vendors that can meet its requirements. Id. at 9. Encompass has not provided any information to call this determination into question.

The protest is denied.

Susan A. Poling
General Counsel