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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Superior Cleaning Equipment, Inc.

File: B-411847

Date: October 29, 2015

Greg Sprunk, Superior Cleaning Equipment, Inc., for the protester.

Andrew Murch, EST Companies, LLC, for the intervenor.

Barbara Amster, Esq., and Hallie L. Balkin, Esq., Department of the Navy, for the agency.

Robert T. Wu, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly evaluated the awardee's quotation as technically acceptable is denied where the record shows that the agency's evaluation was reasonable and consistent with the solicitation's terms.

DECISION

Superior Cleaning Equipment, Inc., of San Diego, California, protests the award of a contract to EST Companies, of Tempe, Arizona, by the Department of the Navy, Naval Supply Systems Command, under request for quotations (RFQ) No. N00244-15-T-0131 for an advanced chemical and water treatment system. Superior argues that EST's proposed solution does not meet the salient characteristics of the brand-name-or-equal RFQ.

We deny the protest.

BACKGROUND

The agency issued the RFQ on May 18, 2015, as a total small business set-aside, commercial items acquisition, utilizing the third-party reverse auction provider FedBid, Inc. RFQ at 1-2. Proposals were to be evaluated under two criteria on an acceptable/unacceptable basis: (1) ability to meet technical capability and (2) ability to meet the required delivery schedule. *Id.* at 10. Award was to be made to the responsible offeror who met these two criteria and offered the lowest price. *Id.* at 11. The RFQ included eight pieces of equipment, a line item for installation and

removal of old equipment, and a provision for twelve months of preventive maintenance that vendors were required to meet or exceed. Id. at 1. The RFQ did not list any salient characteristics for the pieces of equipment listed. Id.

The agency received quotations from EST and Superior, with EST submitting a proposed price of \$46,874.24, and Superior submitting a price of \$48,281.25. Agency Report (AR), exh. 9, Vendor Abstract, at 1. After an evaluation, both quotations were found to be technically acceptable under both factors. AR, exh. 16, Source Selection Technical Evaluation Report (TER), at 1. With respect to EST's proposal, the technical evaluation board (TEB) determined that the firm sufficiently addressed the items listed in the RFQ as minimum technical acceptability criteria. Id. Ultimately, the contracting officer made award to EST as the lowest-priced, technically acceptable offeror. AR, exh. 18, Award Notice, at 1.

After an unsuccessful agency-level protest, Superior timely submitted this protest.

DISCUSSION

Superior challenges the agency's determination that EST's proposal was technically acceptable for proposing equipment that met or exceeded those items set forth in the RFQ. In this regard, the protester argues that it is familiar with the equipment sold by the awardee and, to its knowledge, EST does not work with any manufacturer that supplies chemical flocculation technologies, a required function of one of the pieces of equipment listed in the RFQ.¹ Comments at 1. The protester also argues that one of the pieces of required equipment calls out an index paper filtering system, the function of which is to remove particulates, suspended solids, emulsified oils and heavy metals. Superior argues that the products sold by EMT's supplier do not provide for such a filtering system or the functionality.² Id. at 1-2.

In reviewing a protest challenging an agency's evaluation, our Office will neither reevaluate proposals, nor substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. Analytical Innovative Solutions, LLC, B-408727, Nov. 6, 2013, 2013 CPD ¶ 263 at 3. Rather,

¹ While the RFQ names specific pieces of equipment that perform certain functions, the parties discuss the protest challenge in terms of functionality performed by this equipment. As such, our decision need not discuss the specific equipment named in the RFQ, but its functionality.

² There was no protective order issued in this protest, and the agency redacted the specifics of EMT's proposal from the agency report released to Superior. However, the agency provided our Office a complete, unredacted copy of the agency report for our "in-camera" review. This decision necessarily discusses the awardee's proposal and the agency's evaluation in general terms.

we will review the record only to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. Id.

Our review of the record, including the agency's evaluation and EST's proposal provides no basis to question the agency's determination that the awardee's proposal was technically acceptable. In this regard, EST's proposal states that its proposed system includes coagulation and flocculation chemical solution technology. AR, exh. 14, EST Technical Quote, at 3. Thus, the protester's first allegation finds no basis in the record.

Superior next argues that EST's system is not equivalent because one of the pieces of required equipment includes an index paper filtering system, which it asserts the awardee's system does not have. However, a review of the record shows that while the awardee's proposed equipment does not specifically mention an index paper filtering system, it does appear to meet the functionality of the specified equipment, even as described by the protester.

As stated above, the function of the index paper filtering system as described by the protester, is to remove particulates, suspended solids, emulsified oils and heavy metals. The awardee's system includes equipment that performs bio-injection and aeration to encourage bio enzyme growth, and a filtration system designed to handle waste streams containing light solids and oils. AR, exh. 14, EST Technical Quote, at 5, 9. As discussed, the RFQ lists eight pieces of equipment that vendors were required to "meet or exceed." RFQ at 1. However, the RFQ did not list salient characteristics for any of the equipment. Id. Given the agency's broad discretion in evaluating proposals, and the lack of any defined salient characteristics for each piece of equipment, we are provided no basis to object to the agency's determination that the awardee's equipment met or exceeded the requirements set forth in the RFQ. See Analytical Innovative Solutions, LLC, B-408727, supra, at 3 (evaluation of proposals is a matter within the agency's discretion).

The protest is denied.

Susan A. Poling
General Counsel