



G A O

Accountability \* Integrity \* Reliability

Comptroller General  
of the United States

United States Government Accountability Office  
Washington, DC 20548

## Decision

**Matter of:** Team Housing Solutions

**File:** B-414105

**Date:** February 10, 2017

---

Jared Gallini, Team Housing Solutions, for the protester.  
Andrew Sinn, Esq., and Gregory Swartzberg, Esq., General Services Administration, for the agency.  
Michael Willems, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### DIGEST

Protest challenging agency's decision not to consider vendor's quotation is denied where the quotation was not timely received by the agency in a manner consistent with the terms of the solicitation.

---

### DECISION

Team Housing Solutions, a woman-owned small business of New Braunfels, TX, protests the General Services Administration's (GSA) decision not to consider its quotation pursuant to request for quotations (RFQ) No. 04160045, issued by GSA for long-term lodging services. Team Housing disputes GSA's determination that Team Housing's quotation was late because its quotation was not submitted to the online portal identified in the solicitation.

We deny the protest.

### BACKGROUND

GSA issued the RFQ via the GSA e-Buy system on August 29, 2016, under the procedures of Federal Acquisition Regulation (FAR) subpart 8.4, to vendors holding contracts under GSA Federal Supply Schedule No. 48, "Transportation, Delivery, and Relocation Solutions." Contracting Officer's (CO) Statement at 2-3. The RFQ anticipated the issuance of a task order for long-term lodging services. Id.

In the RFQ, the agency included Instructions to Offerors regarding the preparation and submission of quotations, and also identified the evaluation criteria and basis for award. RFQ at 2-3. Of relevance here, while the RFQ was issued via GSA's e-Buy electronic portal, the RFQ established that quotations were to be submitted via GSA's Information Technology Solutions Shop (ITSS) electronic portal--no later than 4:00 p.m. Central Time (CT), on September 28, 2016. Id. The RFQ further cautioned that quotations would not be accepted as valid unless submitted to ITSS. Id. The RFQ reiterated that failure to submit quotations via ITSS may "result in exclusion from consideration." Id. Notably, the RFQ did not instruct vendors to submit quotations via GSA's e-Buy portal.

The agency reports that by 4:00 p.m. on September 28 it received quotations in ITSS from five vendors, several of which contacted the agency to ensure that their quotations had been received. CO Statement at 4. The agency did not receive a quotation from Team Housing via ITSS. Agency Report (AR), Tab 17, ITSS List of Quotes Received. On October 6, the agency evaluated the five quotations it received via ITSS, made a selection decision, and began preparing the task order issuance documents. CO Statement at 4. On October 13, before the agency had issued a task order, the agency received an automated notice from the e-Buy system concerning a quotation that Team Housing had submitted via e-Buy. AR, Tab 22, e-Buy Closeout E-mail Notice. The agency indicates that this e-mail was the first notice it had of Team Housing's quotation. CO's Statement at 4. In a letter dated October 26, the agency advised Team Housing that it would not consider its quotation since it had been submitted via e-Buy rather than ITSS. AR, Tab 4, Ineligibility Letter. This protest followed.

## DISCUSSION

Team Housing argues that, to the extent its quotation was incorrectly submitted, it was due to ambiguous and unclear solicitation instructions. Protest at 6-10. Specifically, the protester contends that the agency's instructions were unclear because the RFQ and the agency's communications concerning it contained numerous errors and inconsistencies. Protest at 6-8 and Protester's Comments on the Agency Report at 4-7. Furthermore, Team Housing maintains that the agency erred in not evaluating and considering the quotation since it had been timely received in the e-Buy system. Protest at 5. For the reasons discussed below, the protest is without merit.

### Solicitation Instructions

Team Housing notes a series of purported errors and inconsistencies, both in the solicitation and in agency communications, that it claims lead it to submit its

quotation to the incorrect portal.<sup>1</sup> For example, the protester notes that the RFQ indicated that solicitation amendments would be provided through ITSS and only ITSS; however, the agency actually provided the solicitation amendments via e-Buy. Protester's Comments at 8 and CO's Statement at 3. Protester argues that this substitution, along with other agency communications, gave it the impression that quotations should be submitted via e-Buy. Protester's Comments at 8. As another example, the protester argues that the web address listed in the RFQ for ITSS is incorrect, and does not lead to the ITSS portal. Since the solicitation specified a non-functional link, the protester maintains that the government frustrated vendors' ability to submit their quotations in strict compliance with the RFQ.

An ambiguity exists where two or more reasonable interpretations of the terms or specifications of the solicitation are possible. A party's particular interpretation need not be the most reasonable to support a finding of ambiguity; rather, a party need only show that its reading of the solicitation provisions is reasonable and susceptible of the understanding that it reached. DynCorp Int'l, LLC, B-289863, B-289863.2, May 13, 2002, 2002 CPD ¶ 83 at 8; Aerospace Design & Fabrication, Inc., B-278896.2 et al., May 4, 1998, 98-1 CPD ¶ 139 at 13.

We deny these protest grounds as the identified inconsistencies do not create any ambiguity concerning the place of submission. For example, the agency's decision to publish amendments in e-Buy rather than in ITSS could provide a basis for protest were protester arguing that it had not received solicitation amendments, but that is not the issue raised. In this context, it is not reasonable to read the solicitation's clear and repeated language concerning submission in ITSS as actually referring to e-Buy, simply because the agency pursued an alternative communication strategy after the initial publication of the solicitation.

With respect to the inaccessible web address, the protester merely indicates that the site in question (<http://itss.gsa.gov>) is currently inaccessible. The protester does not in fact provide any evidence to indicate that it was inaccessible when quotations were due. Likewise, the protester does not even allege that it attempted to submit its quotation through the web link at that time. The record here reflects that other vendors successfully submitted their quotations to ITSS, but does not reflect that the protester attempted to access the website at the time quotations were due. In short, we have no basis to conclude that the agency's solicitation instructions were ambiguous, misleading or otherwise frustrated the protester's ability to submit its quotation in accordance with the terms of the solicitation.<sup>2</sup>

---

<sup>1</sup> Although this decision does not address every argument raised by Team Housing, we have reviewed all of the protester's challenges and find that none provides a basis to sustain the protest.

<sup>2</sup> We note that the solicitation included a second web address for submission to ITSS. RFQ at 3. The protester has not argued that this web address was inactive.

(continued...)

## Consideration of e-Buy Submission

Team Housing argues that, notwithstanding its submission to the incorrect portal, its quotation should still be considered because it was timely submitted to the agency via e-Buy, and the agency was in possession of its quotation prior to issuance of the task order. Protest at 5. The protester represents, and the agency does not dispute, that its quotation was submitted in the e-Buy system prior to the 4:00 p.m. deadline on September 28. Protest at 10 and AR at 2. In response, the agency maintains that it did not receive the quotation from Team Housing prior to the submission deadline, only learned of Team Housing's quotation two weeks later -- after quotations had been evaluated and after a vendor had been selected. CO's Statement at 4. The agency notes that it was not monitoring (and was not required to monitor) the e-Buy portal for this solicitation. Id. As a result, the agency contends that Team Housing's quotation was properly rejected. AR at 5.

Generally, it is the vendor's responsibility, when transmitting its quotation electronically, to ensure the delivery of its quotation to the proper place at the proper time. Blue Glacier Management Group, Inc., B-412897, June 30, 2016, 2016 CPD ¶ 177 at 5. Here, the RFQ unequivocally required that quotations be submitted via ITSS, the protester instead submitted its quotation through e-Buy, and the agency was not aware of the submission prior to the time for receipt of quotations. Indeed, the agency warned that quotations had to be submitted via ITSS in order to be considered valid and advised that failure to submit via ITSS may "result in exclusion from consideration." RFQ at 2-3. Significantly, the RFQ did not provide for alternate quotation submission procedures of any kind whether via e-mail<sup>3</sup> or via the e-Buy portal. Thus, the protester's submission of its quotation through the e-Buy system imparted no obligation on the agency to consider the

---

(...continued)

While the fact that the solicitation provided two different web addresses for submission to ITSS may have created a potential ambiguity; such an ambiguity was plain on the face of the solicitation and should have been raised prior to the time for receipt of quotations. See The Arora Group, Inc., B-288127, Sept. 14, 2001, 2001 CPD ¶ 154 at 7 n.5 (patent ambiguities must be protested prior to the date for receipt of quotations).

<sup>3</sup> The protester contends that the agency improperly accepted quotations via e-mail in this case. However, the record does not support protester's contention. Instead the record shows that several vendors who submitted quotations via ITSS attempted to confirm via e-mail that their quotations had been received, and in some cases attached their quotations to those confirmatory e-mails. Compare AR, Tab 17, ITSS List of Quotes Received with AR, Tab 16B, E-mail from Offeror – Verification of Receipt.

quotation<sup>4</sup> given that the e-Buy portal was not the proper location for electronic submissions. See Advanced Decisions Vectors, Inc., B-412307, Jan. 11, 2016, 2016 CPD ¶ 18 at 5 (holding that agency properly rejected protester's quotation where the solicitation provided for submission of quotations via e-mail and the protester submitted its quotation to the e-Buy system).

Finally, to the extent the protester relies on the provisions in Federal Acquisition Regulation Parts 14 and 15, governing the late delivery of bids and proposals, to argue that the agency should have considered its e-Buy submission as a "late" quotation, such reliance is mistaken. As a general matter, these provisions do not apply to the late delivery of quotations. In fact, absent the inclusion of a specific late quotations provision in a solicitation, an agency may consider a quotation received prior to a selection decision if no substantial activity has transpired in evaluating quotations because an RFQ, unlike a request for proposals (or an invitation for bids), does not seek offers that can be accepted by the government to form a contract. International Code Council, B-409146, Jan. 8, 2014, 2014 CPD ¶ 26 at 2.

Instead, the government's purchase order represents an offer that the vendor may accept through performance or by a formal acceptance document. See M.Braun, Inc., B-298935.2, May 21, 2007, 2007 CPD ¶ 96 at 3. While the solicitation does not appear to have included a specific late quotations provision, the agency reasonably declined to consider the protester's quotation where the record reflects that the agency had completed its evaluation and made its selection decision prior to learning of the existence of the protester's quotation in the e-Buy system. See Adrian Supply Co., B-235352, Aug. 2, 1989, 89-2 CPD ¶ 99, 68 Comp. Gen. 575,

---

<sup>4</sup> This case is distinguishable from our decision in AECOM Technical Services, Inc., B-411862, Nov. 12, 2015, 2015 CPD ¶ 353, in which we found that an agency should have considered a proposal submitted to the wrong location within the agency's designated electronic filing system. In AECOM, the record showed that the agency knew it had received the proposal at the wrong location within the electronic filing system before the submission deadline, and the issue of when the agency knew it had received the proposal was one of the determinative factors. See AECOM Technical Services, Inc., *supra*, at 4, citing Onsite OHS, B-406449, May 30, 2012, 2012 CPD ¶ 178 (noting we had reached the opposite conclusion in a "virtually identical" case where the agency was unaware that the proposal had been submitted to the wrong location until well after the submission deadline). In this case, unlike AECOM, the protester submitted its quotation to an electronic filing portal not identified by the solicitation for submission (e-Buy) and the agency was not aware that the quotation had been received by the e-Buy system until well after the submission deadline.

(holding that agency properly rejected a late quotation where the agency did not receive it until after the agency had evaluated other quotations and had made a preliminary selection decision).

The protest is denied.

Susan A. Poling  
General Counsel