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Decision

Matter of: ManTech Advanced Systems International, Inc.

File: B-414985

Date: October 20, 2017

Stuart B. Nibley, Esq., and Amy M. Conant, Esq., K&L Gates LLP, for the protester. Colonel C. Taylor Smith, Esq., and Lieutenant Colonel Kevin P. Stiens, Esq., Department of the Air Force, for the agency. Mary G. Curcio, Esq., and Laura Eyester, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that the agency failed to consider firm's proposal is denied where the protester cannot demonstrate that the agency received the e-mail containing the proposal.

DECISION

ManTech Advanced Systems International, Inc., of Herndon, Virginia, protests the Department of the Air Force's decision not to consider its proposal under Request for Task Order Proposals (RFTOP) No. CT 16-1421, issued for cloud migration assessment of National Geospatial-Intelligence Agency activities.

We deny the protest.

BACKGROUND

The RFTOP, issued on June 13, 2017, under the Air Force Installation Contracting Agency's Cyber Security and Information Systems Technical Tasks indefinite-delivery, indefinite-quantity (IDIQ) contract, provided for the issuance of a cost-plus-fixed-fee task

order.¹ RFTOP at 1. The task order proposals were to be submitted electronically via e-mail to the contract specialist, at CSIACTAT@us.af.mil, no later than 1:00 p.m. Central Time, on July 17, 2017. RFTOP, amend. 2, at 1. The solicitation provided that proposal receipt would be acknowledged by return e-mail. RFTOP at 2.

The protester reports, and the agency does not dispute, that on July 17, at 1:25 p.m. Eastern Daylight Time (EDT), ManTech sent its proposal, via e-mail, to the agency's designated recipient, CSIACTAT@us.af.mil, and received confirmation of completed delivery through its Microsoft Outlook delivery receipt feature. Protest at 5; Protest, attach. d, Copies of Outlook Delivery Confirmations. At 1:32 p.m. EDT, ManTech, not having received an acknowledgment from the agency that its proposal had been received, contacted the Air Force and was informed that the proposal was not in the CSIACTAT@us.af.mil mailbox. Protest at 5; Decl. of ManTech Contracts Manager at 1. ManTech re-sent the e-mail with its proposal at 1:37 p.m. EDT to the CSIACTAT@us.af.mil mailbox, and also sent the proposal, via e-mail, directly to the agency employee it had spoken to, and the contract specialist. Protest, attach. c, ManTech E-Mails. At 1:40 p.m. EDT, ManTech again received confirmation of receipt through Outlook, and at 1:49 p.m. EDT, the agency again informed ManTech that the proposal did not reach the CSIACTAT@us.af.mil mailbox. Protest, attach. d, Copies of Outlook Delivery Confirmations; Decl. of ManTech Contracts Manager at 2. At 1:59 p.m. EDT, ManTech removed the cover letter and again re-sent the e-mail with the proposal. Protest, attach. c, ManTech E-Mails. At 2:00 p.m. EDT, ManTech received confirmation of completed delivery through Outlook. Protest, attach. d, Copies of Outlook Delivery Confirmations.

At 2:01 p.m. EDT, the contracting officer instructed ManTech not to send further e-mails because the deadline for the receipt of proposals had passed. Decl. of ManTech Contracts Manager at 1. Subsequently, the contracting officer informed ManTech that the agency had not received its proposal in the CSIACTAT@us.af.mil mailbox, and thus, that ManTech was not considered for award. Id. at 2. On July 27, ManTech submitted its protest to our Office.

DISCUSSION

ManTech asserts that the Air Force should be required to consider its proposal because the proposal was timely sent to the agency's designated e-mail box, and ManTech received confirmation from its Outlook delivery system that it had been received. ManTech notes in this regard that it reviewed the tracking record for the first sent e-mail which indicates that the Cisco IronPort system opened a Simple Mail Transfer Protocol

¹ The estimated value of this award was approximately \$97.8 million. RFTOP at 1. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts valued over \$25 million. 10 U.S.C. § 2304c(e)(1)(B).

(SMTP) connection with the recipient at 13:28:47 (1:28 p.m. EDT), and received the SMTP remote response at 13:31:52 (1:31 p.m. EDT), three minutes later. Protest at 6; Decl. of ManTech Director of Network Services, at 1. According to ManTech, during these three minutes, the recipient's server had the ability to deliver or reject the transmittal. Id. ManTech asserts that since it did not receive a bounce back indicating that the e-mail containing the proposal had been rejected, it must have been accepted by the agency's e-mail exchange server. Id. ManTech concludes that the Air Force should be required to consider ManTech's proposal since it made it beyond the initial point of entry to the government's infrastructure.

In response, the Air Force reports that ManTech's proposal was never received in the CSIACTAT@us.af.mil mailbox, the mailbox designated in the RFTOP for the receipt of proposals.² Request for Dismissal at 2. The Air Force explains that when an e-mail is sent to any recipient that is at an organization that is part of the Department of Defense, it is first scanned by the enterprise e-mail security gateway (EEMSG) for malicious content. Decl. of EEMSG Program Manager at 1. EEMSG delivers the e-mail to the recipient's e-mail exchange server if no malicious content is found. Id. The recipient's e-mail exchange server then performs additional scans based on the specific policies of the recipient organization. Id. at 2. The recipient's server can block, quarantine, drop, or deliver the e-mail to the recipient's e-mail box. Id. The Air Force reports that the e-mails sent by ManTech were received by the EEMSG system, which scanned them and attempted to deliver them to the specified Air Force e-mail address. Agency E-mail, Aug. 23, 2017 (10:44 a.m.); Decl. of EEMSG Program Manager at 1. However, based on the content, they were rejected by the Air Force server. Id. ManTech did not receive a bounce back because the EEMSG inbound system cannot initiate a connection to the internet. Decl. of EEMSG Program Manager at 1.

It is an offeror's responsibility to deliver its proposal to the proper place at the proper time. Tele-Consultants, Inc., B-414135, Feb. 27, 2017, 2017 CPD ¶ 132 at 5. Moreover, the protester has the burden of showing that it timely delivered its proposal to the agency at the specified address. See Latvian Connection Trading & Constr., LLC, B-402410, Feb. 25, 2010, 2010 CPD ¶ 58 at 3; Lakeshore Engineering Services, B-401434, July 24, 2009, 2009 CPD ¶ 155 at 4. An agency is not required to consider a proposal where there is no evidence that the proposal was "actually received." Tele-Consultants, Inc., supra.

Here, ManTech has demonstrated that it timely sent its proposal to the agency, and that it reached the EEMSG server. However, the RFTOP stated that proposals were to be submitted electronically via e-mail to the contract specialist, at CSIACTAT@us.af.mil. RFTOP, amend. 2, at 1. ManTech has failed to establish that its proposal was actually delivered to the agency's designated e-mail prior to the time set for the receipt of

² The agency also reports that the e-mails never reached either of the other parties to which ManTech sent them. Request for Dismissal at 2; Decl. of Procuring Contracting Officer.

proposals, and thus, has failed to meet its burden of showing that its proposal was timely delivered to the agency.³ Accordingly, the agency could not consider the proposal.⁴ Tele-Consultants, Inc., supra.

The protest is denied.

Susan A. Poling
General Counsel

³ Since the agency never received the proposal in the designated mailbox, none of the late proposal exceptions under Federal Acquisition Regulation (FAR) § 15.208(b)(1) relied on by the protester are applicable here, even assuming the application of these provisions to a FAR Part 16 task order competition--which is a question we do not reach. See Peers Health, B-413557.3, March 17, 2017, 2017 CPD ¶ 93.

⁴ We note that to the extent there is any concern with whether the Air Force e-mail system was properly operating, the agency successfully received six proposals in the designated e-mail box. Request for Dismissal at 5.