



Decision

Matter of: Government Scientific Source, Inc.

File: B-416777

Date: October 18, 2018

Gretchen Pfaffe, for the protester.

Jo Spence, Esq., Department of Veterans Affairs, for the agency.

Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency misevaluated protester's quotation as unacceptable under brand name-or-equal specification is denied where protester offered equal products but did not show that the products met one of the nine salient characteristics that were listed in the solicitation as minimum requirements.

DECISION

Government Scientific Source, Inc. (GSSI), of Reston, Virginia, a small business, protests the award of a contract to Kanawha Scales & Systems, Inc., of Poca, West Virginia, under request for quotations (RFQ) No. 36C10G18Q0157, issued by the Department of Veterans Affairs (VA) for electronic analytical balances. GSSI argues that the VA unreasonably rejected the firm's quotation and improperly awarded the contract to Kanawha at a higher price.

We deny the protest.

BACKGROUND

The RFQ, issued on April 30, 2018, requested commercial item quotations to provide analytical balances to VA facilities under a nationwide service level agreement contract for ordering periods of a base year and 2 option years. The RFQ identified nine models of balances under a brand name-or-equal specification, and incorporated Federal Acquisition Regulation (FAR) provision 52.211-6. RFQ attach. B, Product Description, at 2 & attach. E, Solicitation Provisions, at 5. The RFQ identified nine specific models of Mettler Toledo brand balances, corresponding to nine separate contract line item numbers (CLIN), and then listed nine salient characteristics--each of which was labeled

as being applicable to all nine balance models. Id. at 3. The salient characteristics were a touchscreen display, “various models” having “capacities up to a minimum of 220 grams,” a means to prevent air currents from affecting results, a resolution of 0.1 mg or better, accuracy at a combined maximum error of “2 divisions,” a check-weighing function, a “[s]tatus light to indicate ready, warnings[,] and errors,” a “[r]emovable pan for cleaning to reduce risk of contamination,” and automated calibration technology. Id. For each salient characteristic, the RFQ specified that products would be assessed by “literature review.” Id. For the purposes of price evaluation, the RFQ listed an estimated quantity of 26 balances of each of the nine models per year. RFQ attach. A, Pricing Spreadsheet, at 1.

The RFQ indicated that a single requirements contract would be awarded to the firm whose quotation provided the best value to the agency under three factors, in descending order of importance: technical, past performance, and price. RFQ attach. E, Solicitation Provisions, at 10-11. The technical evaluation would use the vendor’s descriptive literature to evaluate whether the quoted products were technically acceptable, and to assess the degree and extent to which the RFQ requirements were satisfied. Id. at 11. The RFQ advised vendors that the quotations would be thoroughly evaluated to determine whether “all of the minimum salient characteristics” had been met, and that those that did not do so would be rated unacceptable. Id.

The VA received quotations from four firms, including GSSI and Kanawha. GSSI’s quotation provided descriptive literature and data sheets for both its “GT-Series” balances and its “GX-Series” balances, past performance information, and a pricing schedule for a specific GT- or GX-Series balance, corresponding to each of the nine CLINs, at an evaluated price of \$2.29 million for all 3 years. Protest attach, Quotation vol. III (GSSI Price Quotation), at 1-2.

According to GSSI, after receiving the quotations, the VA contacted GSSI twice to request additional information. GSSI states that the VA contacted the firm on June 20, to request clarification that the accuracy of the balances met the requirements of the RFQ. GSSI also states that on July 3, the VA made a second request for additional information regarding the firm’s representations and certifications. Protester’s Comments at 1.

VA evaluated Kanawha’s quotation as acceptable and selected it for award at an evaluated price of \$2.77 million for all 3 years. On August 27, the VA announced that the contract had been awarded to Kanawha. Agency Report (AR), Tab 7, Letter from Contracting Officer to GSSI Account Manager, at 1-3. On August 29, GSSI contacted the contracting officer to emphasize that its quotation had offered a longer warranty than required, and to request an explanation for the decision to award the contract to Kanawha at a higher price. AR, Tab 8, Email from GSSI Account Manager to Contracting Officer, at 1. The contracting officer responded by email as follows:

The following weakness/deficiencies were found in your quote:

SC7: Weakness; Literature provided in the technical volumes shows the balances do not provide a status light to indicate ready, warnings and errors.

SC8: Weakness; Literature provided in the technical volumes does not demonstrate the devices have a removable pan.

Due to these weaknesses your quote was found technically unacceptable and ineligible for award.

AR, Tab 9, Email from Contract Specialist to GSSI Account Manager, at 1.

GSSI responded on August 31 to dispute the agency's evaluation on both points. First, the protester argued that, for at least one model of its balances, the descriptive literature in the quotation stated that the model provided "Ambient Conditions Monitoring of 'several different parameters; temperature, humidity, atmospheric pressure, and air density,'" which GSSI argued was "directly comparable to 'a status light to indicate ready, warnings and errors' because the color graphic display of the ambient conditions on the GSS balances are directly related to '...ready, warnings and errors'." AR, Tab 10, Email from GSSI Vice President to Contract Specialist, at 2. Second, GSSI argued that "[t]he GSS balances offered have removable pans. This is an industry standard for all balances, regardless of manufacturer, as the weighing pan must always be removed before shipping, moving, or cleaning the balance." Id. GSSI also noted that its quotation did not take exception to the salient characteristics listed in the RFQ. Id.

On September 5, GSSI filed an agency-level protest, arguing that its quotation had been misevaluated as unacceptable. AR, Tab 12, Agency-Level Protest, at 1. A day later, GSSI filed this protest with our Office, in which it raised essentially the same arguments.

PROTEST

GSSI argues that the VA misevaluated the firm's quotation as unacceptable. In particular, GSSI argues that status lights and removable pans have been standard on all commercial scientific balances for decades, that every modern balance has both features, and that both features were evident in the photographs in the descriptive literature submitted as part of its quotation. Protester's Comments at 1. More specifically, GSSI states that the status panel is clearly visible in all photographs of the balances in its quotation, and that the narrative identified the information that the panel provided. Id. GSSI also argues that the balance pan was likewise visible in the photographs, and that it would be "inconceivable" for any modern scientific balance to lack a removable pan, which GSSI argues became a standard feature decades ago. Id. The VA argues that, despite the protester's arguments, the "VA evaluators determined otherwise" and assessed two deficiencies for the quotation's failure to meet salient characteristics regarding status lights and a removable pan. AR at 3.

Our review of the quotation did not identify any depiction or statement that any of GSSI's balances had a removable pan. In order to clarify the record, our Office then held a conference call with the parties on October 5, during which GSSI's representative agreed that the illustrations in its quotation do not show the pans in its balances are removable, nor does the text indicate the presence of removable pans.

A vendor is responsible for submitting a well-written quotation, with adequately detailed information, that clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency. FEI Sys., B-414852.2, Nov. 17, 2017, 2017 CPD ¶ 349 at 6. An offeror must include sufficiently detailed information in its proposal (or quotation, as here) to establish that the equipment offered will meet the solicitation requirements. AZTEK, B-229525, Mar. 2, 1988, 88-1 CPD ¶ 218 at 3. Under a brand name-or-equal specification, with respect to the offer of an "or equal" product, an offeror's proposal (or quotation) must demonstrate that its product conforms to the salient characteristics listed in the solicitation. CAMSS Shelters, B-309784, B-309784.2, Oct. 19, 2007, 2007 CPD ¶ 199 at 4. A procuring agency enjoys a reasonable degree of discretion in determining whether a particular product meets the solicitation's technical requirements, including those set forth as salient characteristics, which we will not disturb unless it is shown to be unreasonable. Solid Waste Integrated Sys. Corp., B-258544, Jan. 17, 1995, 95-1 CPD ¶ 23 at 4.

Our review of the record here provides no basis for objecting to the agency's evaluation because the protester's quotation did not demonstrate that its products met at least one of the required salient characteristics in the RFQ. As quoted above, the RFQ specified as one of the salient characteristics of the balances that each model have a removable pan. GSSI does not question that the RFQ imposed the requirement, and although it argues strenuously that its balances provided that feature, our review of the record shows (and GSSI appears to concede) that its quotation did not state or show that its products met the requirement. GSSI's quotation thus failed to demonstrate that its products met at least one of the required salient characteristics, so the VA's evaluation of GSSI's quotation as unacceptable was reasonable.¹

The protest is denied.

Thomas H. Armstrong
General Counsel

¹ In light of this determination, we do not reach GSSI's second argument that its quotation met the salient characteristic of having a "status light" on its balances in the form of the information provided on their illuminated screens.