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## Decision

**Matter of:** Harmonia Holdings Group, LLC

**File:** B-418290.3; B-418290.4

**Date:** February 27, 2020

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W. Brad English, Esq., Emily J. Chancey, Esq., Michael W. Rich, Esq., and Jon D. Levin, Esq., Maynard Cooper & Gale, PC, for the protester.  
Daniel J. Strouse, Esq., John J. O'Brien, Esq., and David S. Cohen, Esq., Cordatis LLP, for FreeAlliance.com, LLC, the intervenor.  
Jackson Reams, Esq., General Services Administration, for the agency.  
Evan D. Wesser, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest challenging the agency's evaluation of the protester's quotation as being technically unacceptable for failing to demonstrate its capability to comply with certain accessibility requirements established by Section 508 of the Rehabilitation Act of 1973 is denied because the record reflects that the agency's evaluation was reasonable and in accordance with the terms of the solicitation.

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### DECISION

Harmonia Holdings Group, LLP, of Blacksburg, Virginia, protests the establishment of multiple blanket purchase agreements (BPAs) pursuant to request for quotations (RFQ) No. ID11190022, which was issued by the General Services Administration (GSA) on behalf of the Department of Housing and Urban Development (HUD), for information technology services. Harmonia argues that GSA unreasonably evaluated its quotation as technically unacceptable for failing to demonstrate its capability to comply with the accessibility requirements established by Section 508 of the Rehabilitation Act of 1973.<sup>1</sup>

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<sup>1</sup> Section 508 of the Rehabilitation Act of 1973, as amended, requires federal agencies to ensure that their electronic and information technology (EIT) provides comparable access to people with and without disabilities whenever an agency develops, procures, maintains, or uses EIT. Visual Connections, LLC, B-407625, Dec. 31, 2012, 2013 CPD ¶ 18 at 1.

We deny the protest.

## BACKGROUND

On August 5, 2019, GSA issued the RFQ in order to establish multiple BPAs for information technology services in support of the HUD Office of the Chief Information Officer. The agency issued the RFQ pursuant to Federal Acquisition Regulation subpart 8.4 to holders of Information Technology Schedule 70 Federal Supply Schedule contracts. The RFQ anticipated the establishment of multiple BPAs, including some set aside for small business concerns, with each BPA having a 1-year base ordering period, and four 1-year option periods. RFQ at 22.<sup>2</sup> The estimated value of the BPAs is over \$327 million, and orders can be placed on a fixed-price or time-and-materials basis. Id. at 26-27; Agency Report (AR), Tab 8, Source Selection Decision (SSD), at 13.

The RFQ's Performance Work Statement (PWS) requires that all EIT products and services provided under the BPA shall comply with all applicable Section 508 statutory and regulatory requirements. RFQ at 35-36. Each vendor's quotation was to "include a statement indicating its capability to comply with Section 508 requirements throughout its performance of this acquisition in accordance with [PWS] Section 7.6." Id. at 47. GSA was to evaluate an offeror's quotation to "determine whether it include[d] a statement indicating its capability to comply with Section 508 requirements throughout its performance," and advised that the failure to provide the required statement indicating the offeror's capability to comply would result in the quotation's elimination from further consideration for award. Id. at 51.

Award was to be made on a lowest-priced, technically acceptable basis, considering three factors: (1) 508 compliance; (2) key personnel; and (3) similar experience. Id. at 49. The RFQ warned that "[a]n unacceptable rating for any of the evaluation criteria will result in the quotes being rendered technically unacceptable." Id. As explained below, only the agency's evaluation of Harmonia's quotation under the 508 compliance evaluation factor is relevant to the resolution of this protest.

GSA received 68 timely quotations in response to the RFQ; following an initial screening, two quotations were eliminated for failing to provide required pricing information. AR, Tab 8, SSD, at 2. The agency then proceeded to evaluate the remaining quotations, including Harmonia's quotation. The technical evaluators evaluated Harmonia's quotation as technically unacceptable under all three of the non-price factors. AR, Tab 8, Consensus Evaluation Report, at 25, 30, 50-53.

As to 508 compliance, the evaluators found Harmonia's quotation deficient because the quotation failed to include the required statement demonstrating Harmonia's capability to comply with Section 508 requirements. Rather than addressing its capability to

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<sup>2</sup> References herein to the RFQ are to the conformed version inclusive of amendments produced by the agency with its report. Additionally, references to page numbers are to the Bates numbering provided by the agency in its report.

comply, the agency found that Harmonia effectively parroted back and merely committed to comply with the PWS's requirements. Relating to 508 compliance, Harmonia's quotation, in its entirety, states:

Harmonia is committed to building and assessing EIT products that are accessible to people with disabilities who are protected under the Section 508 Law of the Rehabilitation Act of 1973, as amended in 2017 (WCAG 2.0 Guidelines) and per the per the [sic] 1998 Amendments, 29 U.S.C. § 794d, and the Architectural and Transportation Barriers Compliance Board's EIT Accessibility Standards at 36 Code of Federal Regulations (CFR) 1194. Harmonia's policies on Section 508 compliance are based on the information provided by the GSA at [www.section508.gov](http://www.section508.gov) as per GSA Section 508 governance standards.

AR, Tab 4, Harmonia Technical Quotation, at 4.

The technical evaluators found this statement insufficient because it failed to include a statement of a capability, capacity, proficiency, or overall ability to comply with Section 508 requirements. AR, Tab 8, Consensus Evaluation Report, at 25. As a result of being found technically unacceptable under all three non-price evaluation factors, including the 508 compliance factor, the technical evaluators determined that Harmonia's overall quotation was technically unacceptable. *Id.* at 88. The source selection official reviewed the consensus technical evaluation report, concluded that the evaluation was conducted in accordance with the RFQ's criteria, and agreed with its findings, including those with respect to Harmonia's technical unacceptability. AR, Tab 8, SSD, at 9, 13.<sup>3</sup> The source selection official ultimately elected to establish BPAs with two small businesses and three other than small businesses. *Id.* at 13. Following

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<sup>3</sup> The SSD does not specifically address Harmonia's evaluation for 508 compliance; rather, it sets forth the narrative summary from the consensus technical evaluation report's evaluation of Harmonia's quotation, which only addresses the other non-price evaluation factors. Compare AR, Tab 8, SSD, at 9 with Tab 8, Consensus Evaluation Report, at 89-90. The entire text of the consensus evaluation report, however, was enclosed with the SSD and discusses the basis for Harmonia's technical unacceptability with respect to the 508 compliance factor. In addition, a chart preceding the summary narratives confirms that Harmonia was evaluated as technically unacceptable under the 508 compliance factor. AR, Tab 8, Consensus Evaluation Report, at 25, 88; see also AR, Tab 8, SSD, at 8 (noting that the consensus evaluation report enclosed with the SSD "encompasses a detailed written determination as to the acceptability of each proposal evaluated"). As noted above, the source selection official reviewed and concurred with the evaluation findings set forth in the consensus evaluation report. AR, Tab 8, SSD, at 8, 9, 13; see also Contracting Officer's Supp. Statement at 2 (confirming agreement with the evaluators' determination as set forth in the consensus evaluation report as to the unacceptability of Harmonia's 508 compliance statement). On this record, we find no basis to question that the source selection official contemporaneously considered Harmonia as technically unacceptable under the 508 compliance factor.

receipt of a brief explanation of the agency's selection decision, Harmonia filed this protest with our Office.

## DISCUSSION

Harmonia challenges the agency's evaluation of its quotation as technically unacceptable under all three of the RFQ's non-price factors. As to its evaluation for 508 compliance, the protester contends that the agency imposed an unstated evaluation criterion when it assigned a deficiency based on Harmonia's failure to adequately address its capability to comply with the applicable requirements. Harmonia argues that its commitment to meeting the requirements and its reference to having related policies satisfied the RFQ's requirement to demonstrate a capability to comply with Section 508 requirements, which the protester argues is all that the RFQ required.

GSA responds that the protester's narrow interpretation of the solicitation is unreasonable because that interpretation would effectively read out the concept of demonstrating a vendor's "capability" of complying with Section 508 requirements, and would have required an offeror to simply confirm that it was not taking exception to the requirements. For the reasons that follow, we find no basis to sustain Harmonia's challenge to the agency's evaluation of its quotation under the 508 compliance evaluation factor. As a result, we need not address the protester's challenge to the agency's evaluation under the other factors, as Harmonia's unacceptable rating for 508 compliance rendered its quotation ineligible for award. RFQ at 49, 51.

The crux of the dispute between the parties is the meaning of the RFQ's usage of the phrase "capability to comply." Neither party alleges that the RFQ is ambiguous, but, rather, each argues that its preferred interpretation is the only reasonable one. When a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions; to be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. Magellan Fed., B-416254, B-416254.2, June 7, 2018, 2018 CPD ¶ 206 at 4. Here, we find that GSA's interpretation of the solicitation as requiring some demonstration of a vendor's capacity, proficiency, or overall ability to comply with Section 508 requirements--as opposed to merely confirming that it would comply--is the only reasonable interpretation of this provision.

The RFQ did not instruct offerors to confirm or commit to comply with the applicable Section 508 requirements; rather, it required a vendor to address its capability to comply with the requirements. We agree with the agency that the common understanding of the concept of capability generally refers to the ability, knowledge, experience, or wherewithal to do or accomplish something.<sup>4</sup> Additionally, the PWS unequivocally

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<sup>4</sup> See, e.g., Capable, Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/capable> (last visited Feb. 24, 2020)

provides that vendors will be required to comply with Section 508 requirements during any subsequent performance. RFQ at 47. We do not find reasonable Harmonia's interpretation of the 508 compliance statement requirement as merely requesting a vendor's confirmation of its willingness to comply with the RFQ's requirements, as opposed to addressing its ability to comply with such requirements. Such an interpretation effectively seeks to substitute a "commitment to comply" for the RFQ's requirement to address a vendor's "capability to comply," which is not supported by the plain text and context of the RFQ's requirements.

Once the agency's interpretation of capability as requiring a vendor's demonstration of its capacity, proficiency, or overall ability to comply with Section 508 requirements is accepted as the only reasonable interpretation of the RFQ, Harmonia's mere confirmation of its commitment to comply and brief reference to corporate policies is facially deficient. As we have recognized, it is an offeror's obligation to submit an adequately-written proposal or quotation for the agency to evaluate, and a proposal or quotation that merely parrots back the solicitation requirements may reasonably be downgraded for lacking sufficient detail. Tyonek Worldwide Servs., Inc.; DigiFlight, Inc., B-409326 et al., Mar. 11, 2014, 2014 CPD ¶ 97 at 9 (denying protest challenging an assessed deficiency where the proposal effectively parroted the requirements of the PWS with a statement of intent to perform that did not reflect an ability or capability to perform). On this record, we find no basis to object to GSA's determination that Harmonia's mere promise to comply with Section 508 requirements met the RFQ's requirement that Harmonia demonstrate its capability of complying with the applicable requirements.

The protest is denied.

Thomas H. Armstrong  
General Counsel

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(including as definitions, "having attributes (such as physical or mental power) required for performance or accomplishment," "having traits conducive to or features permitting something," and "having or showing general efficiency and ability").