



DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Zolon PCS, LLC

File: B-420127.2

Date: April 26, 2022

William T. Welch, Esq., and J. Patrick McMahon, Esq., McMahon, Welch and Learned, PLLC, for the protester.

Jose Otero, Esq., and Virginia Ackerman, Esq., Department of Labor, for the agency. Christine Milne, Esq., and Scott H. Riback, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that the agency unreasonably canceled the solicitation is denied where the record shows that the agency had a reasonable basis to cancel the solicitation due to a change in its requirements.

DECISION

Zolon PCS, LLC, of Ashburn, Virginia, protests the cancellation of request for quotations (RFQ) No. 1605TA-21-Q-00005, issued by the Department of Labor for enterprise data and information management support services. Zolon contends that the agency unreasonably cancelled the solicitation.

We deny the protest.

BACKGROUND

The agency issued the RFQ to procure specialized information technology (IT) support services to manage the agency's data warehousing, data management, and information management systems; implement and develop new software for enterprise data and information management systems; and support the agency's clients. Agency Report, Exh. 1a, RFQ at 5.

The agency received a number of quotations in response to the RFQ and issued a blanket purchase agreement (BPA) to Zolon. Contracting Officer's Statement (COS) at 6. Subsequent to the agency issuing the BPA to Zolon, BruckEdwards, Inc., a competitor of Zolon's, filed a bid protest with our Office challenging the issuance of the

BPA to Zolon. In response to that protest, the agency advised that it would reevaluate quotations and make a new source selection decision. Based on the agency's proposed corrective action, we dismissed the earlier protest. *BruckEdwards, Inc.*, B-420127, Sept. 30, 2021 (unpublished decision).

During the reevaluation of quotations, the agency's Office of the Chief Information Officer (OCIO) advised that the solicitation's current requirements no longer reflected the agency's actual needs, and that it was necessary to cancel the solicitation and issue a new, revised solicitation. The agency also concluded, based on its effort to reevaluate quotations in the wake of the BruckEdwards protest, that this would provide an opportunity for it to clarify its evaluation criteria. The agency notified Zolon of the cancellation on February 3, 2022. This protest followed.

DISCUSSION

Zolon argues that the agency unreasonably cancelled the RFQ. The protester maintains that, in its view, there is not a reasonable basis for the cancellation because the agency continues to have a requirement for the solicited services. Zolon's protest focuses entirely on the fact that the record produced during the protest does not contain any contemporaneous documentation in support of the agency's cancellation decision, and instead relies principally on a statement by the contracting officer prepared in connection with Zolon's current protest. Zolon maintains that, under these circumstances, the agency's cancellation decision is unreasonable.

We find no merit to Zolon's protest. A contracting agency need only establish a reasonable basis to support a decision to cancel a solicitation in a negotiated procurement. *Quality Technology, Inc.*, B-292883.2, Jan. 21, 2004, 2004 CPD ¶ 29. For example, cancellation is warranted where a solicitation fails to reflect an agency's actual requirements. *Id.* at 2.

Our review of the record here shows that the cancellation resulted from significant changes to the original requirement. The agency advises that there are three principal areas where significant, new requirements have resulted in the need for major changes to the performance work statement (PWS). We discuss these briefly below.

First, the agency advises that, as a consequence of the passage of the American Rescue Plan Act of 2021, the OCIO informed the contracting officer that the solicitation's PWS needed to be revised to include several significant requirements not previously contemplated. Among other things, the PWS needed to be amended to include IT services to store and analyze unemployment insurance information from each state; build a new national data warehouse for that information; and include a new fraud analytics requirement. COS at 8.

Second, the agency advises that it received approval for a "technology modernization fund" project after the solicitation was issued, and now needs to add new requirements to the solicitation to cover that project. COS at 9. The project will require the creation of

a new application programming interface and a public-facing data portal that will significantly change how the agency shares data, both internally and externally. COS at 8-9. The agency explains that, at the time the solicitation was issued, it had not received approval for the project, and did not know that it would receive such approval.

Finally, the agency advises that, in addition to these requirements, it now intends to include work related to the development of a new senior executive level reporting dashboard. COS at 8. With respect to all three of the requirements, the agency advises that the original PWS did not contemplate these services.

In addition to these considerations relating to the scope of the work being solicited, the contracting officer advises that, during the implementation of its corrective action relating to the protest filed by BruckEdwards, the agency concluded that it could also use this opportunity to clarify and revise its evaluation criteria. COS at 6-7.

As noted, Zolon has not directly challenged the reasonableness of the explanation advanced by the agency to support its decision to cancel the RFQ, or offered any evidence that would lead us to question the underlying credibility of the agency's representations. In fact, Zolon has not even suggested--or argued--that there is any other, alternative reason for cancellation of the solicitation (for example, Zolon has not alleged or demonstrated that the cancellation is a pretext for not issuing the BPA to the firm). Rather, Zolon's sole basis for challenging the agency's actions is the absence of contemporaneous documentation prepared before the agency cancelled the RFQ.

While we recognize that the record does not include any contemporaneous documentation explaining the agency's cancellation decision, this fact, without more, does not provide a basis for our Office to question the underlying reasonableness of the agency's actions. As noted, Zolon has neither argued nor demonstrated that the agency's actions are motivated by some reason other than those advanced by the agency for its cancellation decision. In the absence of any countervailing evidence showing that the agency's motivation is different from the reasons it has advanced to support the cancellation, we have no basis to conclude that the agency's explanation is unreasonable.

Once again, agencies need only have a reasonable basis to cancel a solicitation in a negotiated acquisition. *Quality Technology, Inc., supra*. Here, the agency's explanation provides a reasonable basis for its actions.

The protest is denied.

Edda Emmanuelli Perez
General Counsel