



Decision

Matter of: Resicum International LLC

File: B-421383

Date: March 22, 2023

DOCUMENT FOR PUBLIC RELEASE

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

Heather G. Hornsby, Esq., McDowell Knight Roedder & Sledge LLC, for the protester.
Colonel Frank Yoon, Danelle M. McGinnis, Esq., and Ryan C. Springer, Esq.,
Department of the Air Force, for the agency.

Heather Self, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest challenging evaluation of protester's proposal and exclusion from the competitive range is denied because the agency's evaluation and competitive range determination were reasonable and consistent with the solicitation.

DECISION

Resicum International LLC, a small business of Warrenton, Virginia, protests its exclusion from the competitive range under request for proposals (RFP) No. FA3002-22-R-0025 issued by the Department of the Air Force for flight training. Resicum contends that it was improperly eliminated from the competition for failing to meet the solicitation's requirements.

We deny the protest.

BACKGROUND

On August 23, 2022, using the procedures of Federal Acquisition Regulation (FAR) parts 12 and 15, the agency issued a combined synopsis/solicitation for commercial services seeking "Introductory Flight Training-Rotary (IFT-R)" instruction. Agency Report (AR), Tab 4a, RFP at 1.¹ The solicitation explained that IFT-R "is the first step in the United States Air Force [USAF] Undergraduate Helicopter Training (UHT)" process, and "provides air, ground, and simulation training to prepare students for follow-on specialized rotary wing flight training." *Id.* The solicited effort was to provide "IFT-R initial qualification training (40 hours), instrument familiarization training (10 hours), and

¹ Our citations to documents in the agency report use the documents' Adobe PDF pagination.

simulation (Aircrew Training Device) training (10 hours) for eighty-eight (88) +/- 10 USAF Rotary Wing Pilot candidates per year.” *Id.*

The solicitation contemplated award of a single 10-year indefinite-delivery, indefinite-quantity (IDIQ) contract consisting of a 5-year base period, one 3-year option period, and two 1-year option periods. RFP at 3. The IDIQ contract would have a \$5,000 minimum guarantee and a maximum value of \$110.6 million. *Id.* at 1. The solicitation provided for use of a best-value tradeoff source selection, and established that the agency would make award to an offeror: (1) “who is deemed responsible”; (2) “whose proposal conforms to the solicitation’s requirements”; (3) “whose proposal pass the Gates in paragraph 1.4”; (4) “who is determined to be NEPA [National Environmental Policy Act] compliant at their proposed location(s)”; and (5) “who is judged to represent the best value to the Government.” AR, Tab 4e, RFP attach. 4, Evaluation Factors for Award at 1.

As relevant here, paragraph 1.4 of the solicitation established a set of “Gates (Go/No-Go)^[2]” criteria, stating that “[i]n order to be eligible for award and for further evaluation, offerors must demonstrate that their primary flight training location” met the identified gates requirements. AR, Tab 4e, RFP attach. 4, Evaluation Factors for Award at 1-2; see also Tab 4b, RFP attach. 1B, Performance Work Statement (PWS) at 12. The solicitation further set forth that if “the Government enters into discussions, the Government will notify any offeror who failed to provide evidence of their ability to meet the primary flight training location requirements that they are eliminated from the competitive range before entering into discussions.” AR, Tab 4e, RFP attach. 4, Evaluation Factors for Award at 2.

In addition to the gates go/no-go criteria, the solicitation set forth the following evaluation factors: (1) technical; (2) past performance; (3) price; and (4) small business participation. AR, Tab 4e, RFP attach. 4, Evaluation Factors for Award at 3-4. The technical and past performance factors were of equal importance, and when combined, were significantly more important than price. *Id.* at 4. The solicitation instructed offerors to organize their proposals into the following sections: “Initial Evaluation Gates (Go/No-Go)”; “Volume I Technical”; “Volume II Past Performance”; “Volume III Price”; and “Volume IV Small Business Participation.” AR, Tab 4d, RFP attach. 3, Instructions to Offerors at 4-5. Further, the solicitation advised that “[i]n order to be eligible for award and for further evaluation, Offerors shall provide documentation that demonstrates that their primary flight training location meets the” gates requirements related to airfield runway size, airfield climate conditions, and airfield proximity to a specific type of medical facility. *Id.* at 7.

² The record employs several variations of the term “go/no-go,” including both with and without hyphenation. For consistency, we use the hyphenated phrase throughout our decision.

Upon receipt of initial proposals, the evaluators assessed whether the solicitation's gate requirements were met. AR, Tab 15, Competitive Range Decision at 2. Only proposals that demonstrated compliance with the gates requirements would proceed to be evaluated under the technical, past performance, price, and small business participation factors. *Id.* at 2-3. Resicum's proposal did not advance to the second evaluation stage. While the evaluators assessed Resicum's proposal as meeting the gates requirements related to airfield climate conditions and proximity to a specific type of medical facility, they concluded that the firm's proposal did not meet the gates requirements related to airfield runway size. AR, Tab 12, Resicum Gates Evaluation at 2-3; Tab 13, Source Selection Evaluation Board (SSEB) Initial Report at 14-15; AR, Tab 15, Competitive Range Decision at 12-13.

Specifically, the evaluators noted that Resicum failed to provide the required specifications for the runway size of its proposed airfield in the go/no-go portion of its proposal. AR, Tab 12, Resicum Gates Evaluation at 2. As a result, the agency determined that it "could not evaluate" whether Resicum's airfield runway met the size specifications set forth in the PWS. *Id.* As Resicum's proposal failed to meet a go/no-go gates requirement, the evaluators determined that the proposal was ineligible for award and did not evaluate it further. *Id.* at 2-3; AR, Tab 13 SSEB Initial Report at 15; Tab 15, Competitive Range Decision at 3, 13.

The agency notified Resicum that its proposal failed to meet the gates requirement related to airfield runway size, and, thus, was not further evaluated, deemed ineligible for award, and excluded from the competitive range. AR, Tab 16, Notice of Elimination from Competition at 1. Resicum requested and received a pre-award debriefing, and then filed this protest with our Office. See AR Tab 17, Resicum Request for Debriefing; Tab 19, Resicum Debriefing Email Transmittal; Tab 21, Resicum Debriefing.

DISCUSSION

Resicum challenges the agency's conclusion that its proposal did not meet the gates requirement. Specifically, the protester maintains that its proposed airfield meets the solicitation's runway size requirements, and represents that the necessary information establishing this was included in volume I of its proposal addressing the technical evaluation factor requirements. Protest at 2-3, *citing* AR, Tab 8, Resicum Technical Volume at 18. According to Resicum, the agency improperly ignored this information when the Air Force "only looked at one small part of Resicum's Proposal--its Go/No-Go Document--before eliminating Resicum" from the competition. Protest at 6, *citing generally* AR, Tab 7, Resicum Go/No-Go Document. Resicum acknowledges that the solicitation "require[d] that certain 'Gates (Go/No-Go)' criteria be met," but claims that "the RFP [did] not require a specific 'Gates (Go/No-Go)' section to be included in an offeror's proposal, and it [did] not instruct offerors to include any certain information in a separate 'Gates (Go/No-Go)' section for exclusive initial evaluation." Protest at 6.

The agency responds that the RFP's instructions "clearly specified that the Initial Evaluation Gates (Go/No-Go) factors were a separate part of the submission and not part of the other required volumes." Contracting Officer's Statement (COS) at 7-8, *citing* AR, Tab 4d, RFP attach. 3, Instructions to Offerors at 4-5. According to the Air Force, the agency properly evaluated only the information in Resicum's "standalone 'Go/No-Go' document[,] and then correctly determined Resicum failed to provide any information demonstrating that it met the Primary Airfield Specification in its 'go/no-go' document." Memorandum of Law (MOL) at 12.

Where, as here, the parties 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. *Patronus Sys., Inc.*, B-418784, B-418784.2, Sept. 3, 2020, 2020 CPD ¶ 291 at 5. To be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. *Id.*; *Futron, Inc.*, B-420703, July 25, 2022, 2022 CPD ¶ 189 at 6.

Here, Resicum's interpretation that the RFP did not require offerors to provide specific information in response to the RFP's go/no-go gates section ignores a number of provisions of the solicitation. Specifically, the protester's interpretation ignores: (1) the paragraph titled "Gates (Go/No-Go)," that advised offerors, "[i]n order to be eligible for award and *for further evaluation*, offerors must demonstrate that their primary flight training location" met the gates requirements; and (2) the paragraph that stated, "[i]f an Offeror fails to provide evidence of their ability to meet the primary flight training location requirements above, their proposal will be rendered ineligible for award and *will not be further evaluated*." AR, Tab 4e, RFP attach. 4, Evaluation Factors for Award at 1-2 (emphasis added).

Additionally, under the RFP's instructions to offerors section, the solicitation provided the same advisory statement that "[i]n order to be eligible for award and *for further evaluation*" offerors must provide information demonstrating compliance with the gates requirements. AR, Tab 4d, RFP attach. 3, Instructions to Offerors at 7 (emphasis added). Those instructions to offerors also included an organizational chart listing the separate proposal sections offerors were required to submit, the first of which was an "Initial Evaluation Gates (Go/No-Go)" document.³ *Id.* at 5. Finally, the solicitation included a table of questions and answers. AR, Tab 5c, RFP Questions & Answers. Question No. 54 asked the following: "Does the Government want a stand-alone

³ Resicum acknowledges that the RFP's instructions "include[d] an organizational chart for proposals," but argues that because this chart "does not state that such a separate [go/no-go] section is required, it contains no description of it, and it provides no instructions of what to do with it or include in such a section," that it was unclear as to whether a separate go/no-go document was required. Protest at 7. We find no merit to this argument where the chart clearly identified for submission: the document by title ("Initial Evaluation Gates (Go/No-Go)"); the file name to be assigned to the document ("XXXGatesXXX"); the accepted file formats (".docx & .pdf"); and the maximum page limit ("Unlimited"). AR, Tab 4d, RFP attach. 3, Instructions to Offerors at 5.

document for the Go/No-Go Gates or should bidders include this information in an attachment to the Technical Volume?” *Id.* at 2. In response, the agency provided the following answer: “The Government requires a stand-alone Initial Evaluation Gates (Go/No-Go) document. See [RFP] Attachment [No.] 3 Table 3.” *Id.* at 2.

Read as a whole, the solicitation’s multiple statements that a proposal would not be eligible for *further* evaluation unless it demonstrated compliance with the gates requirements, combined with the inclusion of an “Initial Evaluation Gates (Go/No-Go)” document in the list of required proposal elements made clear that the agency intended to conduct an initial gates evaluation based on an offeror’s go/no-go document. Here, the interpretation of the solicitation advanced by Resicum is unreasonable because it ignores the solicitation’s plain language and fails to read the solicitation as a whole. Accordingly, we find unpersuasive Resicum’s contention that it was improper for the agency to consider only the information included in Resicum’s go/no-go document before eliminating the protester from the competition.⁴ See e.g., *Futron, Inc., supra* at 6 (finding unreasonable protester’s reading that failed to take into account all of the solicitation language regarding proposal submission instructions for certain representations and certifications).

In sum, the record reflects that Resicum failed to include, in its go/no-go proposal submission, information related to the airfield runway size--one of the mandatory go/no-go gate requirements--and, thus, was properly eliminated from the competition, notwithstanding the inclusion of this information in the technical volume of the firm’s proposal. See *Futron, Inc., supra* at 7 (denying protester’s challenge to its exclusion from the competition where record reflected protester failed to comply with the solicitation’s instructions and requirements regarding the submission of certain representations and certifications); *Unico Mech. Corp.*, B-419250, Oct. 29, 2020, 2020

⁴ Resicum also argues that the solicitation was ambiguous as to whether the evaluation of gates requirements would be based on only the information included in an offeror’s go/no-go document or the contents of the entire proposal. Even if we were to find--which we do not--that the RFP was ambiguous in this respect, there would still be no basis to sustain the protest. To the extent there was any such ambiguity, it was obvious from the face of the solicitation, and thus was a patent ambiguity. *Colt Def., LLC*, B-406696, July 24, 2012, 2012 CPD ¶ 302 at 8 (noting that if the error in the solicitation is obvious, gross, or glaring then the ambiguity is patent).

To be considered timely, a patent ambiguity must be protested prior to the closing date for the submission of proposals. 4 C.F.R. § 21.2(a)(1); *Futron, Inc., supra* at 7 n.4. The purpose of our timeliness rules in this regard is to afford the parties an opportunity to resolve ambiguities prior to the submission of offers, so that such patently ambiguous provisions can be remedied before offeror’s formulate their proposals. *Pitney Bowes, Inc.*, B-294868, B-294868.2, Jan. 4, 2005, 2005 CPD ¶ 10 at 5. Where, as here, a patent ambiguity is not challenged prior to submission of offers, we will dismiss as untimely any subsequent protest assertion that is based on one of the alternative interpretations. *Id.*

CPD ¶ 337 at 6 (denying protest challenging application of solicitation's page limitation to offeror's proposal where offeror's interpretation of the page limitation language was unreasonable).

The protest is denied.

Edda Emmanuelli Perez
General Counsel