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Decision

Matter of: Effective Communication Strategies, LLC; Corps of Engineers

File: B-423993; B-423993.2

Date: February 18, 2026

Sarah S. Reida, Esq., Legal Meets Practical, LLC, for the protester.
Robert I. Moore, Esq., Department of the Army, for the agency.
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DIGEST

Protest that the agency failed to provide sufficient time to respond to its requests for revised and final proposal revisions is sustained where the agency was simultaneously revising its requirements and seeking revised proposals multiple times with very short response times, including several arising on weekend days, which did not provide the protester with a fair opportunity to improve its proposal.

DECISION

Effective Communication Strategies, LLC (ECS), a small business of Rapid City, Michigan, protests the award of a contract to Export 220Volt, Inc., a small business of Houston, Texas, under request for quotations (RFQ) No. W912DY-25-Q-A101, which was issued by the Department of the Army, Corps of Engineers, for replacement appliances at multiple U.S. Navy installations. The protester contends that the agency provided the protester insufficient time to respond to substantive amendments and technical review feedback.

We sustain the protest.

BACKGROUND

On July 28, 2025, the agency issued the RFQ for appliances at various U.S. Navy installations located within and outside of the continental United States. Agency Report (AR), Tab 3, RFQ at 1; Memorandum of Law (MOL) at 1.¹ The initial RFQ provided that

¹ References to page numbers herein are to the electronic pagination.

the agency sought replacement microwaves and dehumidifiers. AR, Tab 3, RFQ at 37. The RFQ, which the agency amended ten times, was issued in accordance with the streamlined procedures for evaluation and solicitation of commercial items pursuant to Federal Acquisition Regulations (FAR) subpart 12.6 and the simplified acquisition procedures of FAR part 13.² *Id.* at 1. The RFQ contemplated the issuance of a fixed-price contract with award to be made on a lowest-priced, technically acceptable basis. *Id.* at 1, 4. A quotation would be deemed technically acceptable if it was rated as “acceptable” under three non-price factors: technical capability, schedule, and past performance. *Id.* at 4. Relevant here, technical capability would be evaluated on the basis of whether the items offered met the government’s requirements. *Id.*; *see also id.* at 37-43 (providing detailed technical specifications for dehumidifiers and microwaves).

The agency received three quotations, including from the protester and awardee, by the RFQ’s initial August 28, 2025 closing date. Contracting Officer’s Statement (COS) at 1. After the initial deadline for submissions, the agency continued to amend the RFQ and allowed vendors to submit revised quotations. For each revised quotation the agency received, the agency would, in turn, provide *via* email each vendor with a technical revision (TR). COS at 1. In each technical revision, the agency stated whether the quotation was technically acceptable and, as applicable, explained how or why the quotation did not meet the RFQ’s specifications. *Id.*

Relevant here, on the morning of Wednesday, September 24, the agency issued amendment 0007. AR, Tab 3_G1, ECS Amend. 0007 at 1; Protest, exhs., Amendment 0007 Transmittal Email at 233. Amendment 0007 added Furniture Item Description (FID) 8.15, which was a requirement for a refrigerator-freezer to be delivered to a new location, Naval Station Great Lakes located in Illinois. AR, Tab 3_G, FID Amend. 0007 at 8. The amendment required vendors to provide a refrigerator-freezer in compliance with the amendment’s technical specifications and compliant with the Trade Agreement Act (TAA).³ The initial specifications for FID 8.15 were as follows:

- a. Shall be maximum 22.5”W x 23”D x 57.25”H. Dimensions are critical.

² The agency’s unsuccessful offeror notices cite to the brief explanation requirements of FAR subpart 8.4 applicable to acquisitions conducted under the General Services Administration’s Federal Supply Schedule program. *See, e.g.*, AR, Tab 11_G6, ECS Unsuccessful Offeror Notice at 1. For the purposes of this decision, we assume such references were intended to be to the brief explanation requirements applicable to procurements conducted pursuant to FAR part 13, the authority applicable to this procurement. *See* FAR 13.106-3(d).

³ The TAA, as implemented by Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.225-7021, requires that a contractor deliver only “U.S.-made, qualifying country, or designated country end products” unless certain circumstances not applicable here apply. *See* AR, Tab 3, RFQ at 116-117 (incorporating relevant DFARS provisions).

- b. Shall have total capacity of 7.4 cu. ft.
- c. Shall have 2 doors with separate freezer compartment.
- d. Shall have a minimum of:
 - i. 2 Full width adjustable shelves in the main compartment
 - ii. 2 Crispers
 - iii. 3 Shelves in the door of main compartment
 - iv. 1 Full width adjustable shelf in the freezer compartment
 - v. 2 Shelves in the door of freezer compartment
- e. Doors shall be installed hinged 50% on the left and 50% on the right.
- f. Shall be Energy Star certified.^[4]
- g. Color shall be stainless steel.
- h. Shall provide minimum 1 year warranty on parts and labor.

Id.

Revised quotations were due by 5 p.m. on the same day, Wednesday, September 24.⁵ Protest, exhs. Amendment 0007 Transmittal Email at 233. ECS timely submitted a revised quotation.

On Thursday, September 25, at 12:10 p.m., the agency emailed the protester its TR 6 rejecting ECS's proposed refrigerator and requiring the protester to respond with a compliant product by 4:00 p.m. on the same day. AR, Tab 11_B5, Sept. 25 ECS Email 2 at 1. In the TR, the agency, in part, stated that the protester's proposed refrigerator did not meet the dimension requirements. *Id.*; Tab 5_K, ECS TR 6 at 13

⁴ Energy Star is a program managed by the U.S. Environmental Protection Agency that promotes energy efficiency and provides information on the energy consumption of products and devices using various standardized methods. See *Sierra7, Inc.; V3Gate, LLC*, B-421109 *et al.*, Jan. 4, 2023, at 2 n.3.

⁵ The record contains slight variations in the time stamps on emails as the protester is located in the eastern time zone, while the agency is located in the central time zone. References herein are generally to the central time zone unless otherwise noted.

(finding proposed refrigerator exceeded maximum depth requirement by a half inch). In response, the protester proposed a different refrigerator. AR, Tab 11_C2, Sept. 26 ECS Email at 1.

The agency and protester had a number of additional exchanges regarding ECS's response to TR6. See, e.g., AR, Tabs 11_C4 – C8, Emails between Agency and ECS. These exchanges culminated in the agency issuing TR7 to ECS on Friday, September 26 at 12:23 p.m. AR, Tab 11_C9, Sept. 26 Email to ECS at 1. The agency represented that it was concerned that ECS's proposed refrigerator might be manufactured in China, and thus the product would not be TAA compliant. *Id.* The agency requested a response from ECS by 3 p.m. that day. ECS responded at 2:06 p.m. explaining that information online and from its suppliers was inconclusive, as the proposed refrigerator had the following potential countries of origin: China; Poland; Romania; or Malaysia. AR, Tab 11_C14, Sept. 26 Email from ECS at 1. ECS also identified a potential alternative item. *Id.*

Later on Friday, September 26, at 2:56 p.m., the agency notified ECS that the agency would remove the Energy Star requirement, and that if the protester submitted one of its previously proposed refrigerators, ECS would be "good to go." AR, Tab 11_C15, Sept. 26 Email at 1. ECS subsequently submitted an updated quotation consistent with the agency's 2:56 p.m. direction. AR, Tab 11_C16, Sept. 26 Email from ECS at 1. Notwithstanding the agency's previous direction that it was waiving the Energy Star requirement (which it never subsequently waived) and that if ECS's revised quotation included its previously proposed product that ECS would be "good to go," the agency subsequently issued a finding of technical unacceptability in TR 7 at 4:30 p.m. on Friday, September 26. AR, Tab 11_C17, Sept. 26 Email to ECS at 1. The agency subsequently requested a revised quotation by noon on Saturday, September 27. AR, Tab 11_C17, Sept. 26 Email from ECS at 1.

Prior to the deadline on Saturday, September 27, ECS submitted its response to the agency. Specifically, ECS advised that "[o]ur research shows that there is not a refrigerator that meets the strict size requirement and is both TAA compliant and Energy Star rated." AR, Tab 11_D2, Sept. 27 Email from ECS at 2. The protester proceeded to propose two alternative products: one refrigerator that was TAA compliant, but not Energy Star rated; and one refrigerator that was Energy Star rated, but not TAA compliant. *Id.* Later, on Saturday, September 27, during a telephone call with the protester, the agency suggested that the protester could fulfill the FID 8.15 requirement with a specific type of refrigerator, the Vestel model 263.⁶ Comments at 5. Following

⁶ The Vestel model 263 is manufactured by Vestel International in Manisa, Turkey. Based on the company's website, it appears that Vestel principally markets and sells its products in Europe and parts of Asia. See Vestel Refrigerators, available at [https://vestelinternational.com/Content/files/uploads/518/Digital_NONEC_refrigerators2024%20\(1\).pdf?_sm_nck=1](https://vestelinternational.com/Content/files/uploads/518/Digital_NONEC_refrigerators2024%20(1).pdf?_sm_nck=1) (last visited Feb. 3, 2026); see also ECS Supp. Comments, exh. B, Decl. of ECS Chief Exec. Officer at 1 (averring that based on ECS's research

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the phone call, ECS sent a follow up message to the agency explaining the results of the protester's additional research into the Vestel model 263. Specifically, ECS explained that the model: (1) would need to be purchased internationally, which would require significant shipping costs; (2) was not listed on the U.S. Energy Star website; and (3) uses 220 volts which will not work in the United States.⁷ AR, Tab 11_D3 at 1. Based on these concerns, ECS expressed its reservation that the model was not a viable solution and requested any additional details the agency could share. *Id.*

On Sunday, September 28 at 9:59 a.m., the agency provided the protester with its TR 8, which stated that the protester's quotation was not technically acceptable because neither its primary proposed product nor proposed alternative product were both from a TAA compliant country and Energy Star rated. AR, Tab 5_O, ECS TR 8 at 13; Tab 11_E3, Sept. 28 Email to ECS at 1. The parties subsequently had a telephone call and ECS submitted a revised quotation including a substitute refrigerator.

At 4:29 p.m. on the same day, the agency sent the protester amendment 0008 and TR 9.⁸ The agency required that the protester respond to the TR and amendment by 5:30 p.m. AR, Tab 11_E10, Sept. 28 ECS Email 4 at 1. The TR indicated that the protester's refrigerator was unacceptable because it did not have two shelves in the door of the freezer compartment. AR, Tab 5_Q, ECS TR 9 at 13-14. Amendment 0008 lowered the required number of crispers from two to one. AR, Tab 3_H, amend. 0008 at 8. The protester responded by the amendment's deadline; specifically, the protester explained that it could not offer an alternative product because "[o]ur research indicates that refrigerators that meet the critical size requirements do not have freezer door shelves or bins." AR, Tab 11_E13, Sept. 28 ECS Email 4 at 1.

On Monday, September 29, 2025, at 6:43 a.m. the agency sent the protester amendment 0009 and TR 10. AR, Tab 11_F2, Sept. 29 ECS Email 1 at 1. The agency required that the protester respond to the TR and amendment by 8:00 a.m. that morning. *Id.* In TR 10, the agency indicated that the protester's quotation was technically acceptable except for the fact that it was not manufactured in a TAA compliant country. AR, Tab 5_R, ECS 10 TR at 14. Amendment 0009 changed the total capacity of the product from 7.4 cubic feet to 7.3 cubic feet and added the requirement for automatic defrosting. AR, Tab 3_I, amend. 0009, at 8. ECS timely

the Vestel model 263 "is generally not available in the United States and that there were no dealerships in this country").

⁷ The awardee subsequently demonstrated--and the agency accepted--that the model in question uses 120 volt-60 hertz and is Energy Star rated. See, e.g., AR, Tab 4, Vestel Model 263 Specifications; Tab 9_B, Export Volt 220 TR 8, at 13.

⁸ The agency originally emailed ECS regarding amendment 0008 and TR 9 at 4:02 p.m., but it mistakenly did not include the revised FID information with the email. AR, Tab 11_E10, Sept. 28 ECS Email 3 at 1-2. The agency subsequently sent a corrected version of the email to the protester at 4:29 p.m., and extended the response deadline from 5:00 p.m. to 5:30 p.m. *Id.*

responded. Specifically, ECS explained that its previously proposed refrigerator did not meet the revised total capacity and automatic defrosting requirements, the smaller version of its previously proposed model was discontinued, and, therefore, it was proposing yet another alternative refrigerator that was the best match to the existing requirements. AR, Tab 11_F4, Sept. 29 ECS Email at 1.

At 10:30 a.m., the agency sent ECS amendment 0010 and TR 11 and required the protester to respond by 11:30 AM. AR, Tab 11_F9, Sept. 29 ECS Email 3 at 1. TR 11 stated that the protester’s product was unacceptable because it was not TAA compliant, and it was unclear whether the protester’s product was hinged 50 percent on the left and 50 percent on the right, as required by the RFQ. AR, Tab 5_S, ECS TR 11 at 14. Amendment 0010 modified the total capacity to be a minimum of 7.3 cubic feet and removed the requirements for two shelves in the door of the freezer and automatic defrosting. AR, Tab 3_J, amend. 0010 at 8. ECS timely responded. Specifically, the protester confirmed that the door of its proposed refrigerator is reversible, and that it would install them equally hinged on the right and left. Further, ECS confirmed that its product was not TAA compliant; it again reiterated that “[o]ur research indicates that all models that meet the critical size dimensions and are Energy Star rated are not made in TAA compliant countries.” AR, Tab 11_F12, Sept. 29 Email from ECS at 1.

At 12:06 p.m., the agency issued ECS TR 12 confirming that the proposed refrigerator was technically unacceptable because it was not TAA compliant, and requested a response from the protester by 12:35 p.m. AR, Tab 11_F17, Sept. 29 Email from Agency at 1. ECS did not submit a revised quotation proposing an alternative refrigerator. The agency evaluated the vendors’ respective final quotations as follows:

	Technically Acceptable	Initial Price	Final Price	Can Meet Schedule	Past Performance
ECS	No	\$1,594,410.05	\$2,103,073.35	N/A	Acceptable
Export 22Volt	Yes	\$1,858,103.11	\$2,039,912.11	Yes	Acceptable

AR, Tab 10, Contracting Officer’s Determination at 2.

On September 30, the agency awarded the contract to Export 220Volt. AR, Tab 11_G4, Export Email 4, at 1. On the same day, the agency notified the protester of the award. AR, Tab 11_G6, Sept. 30 ECS Email 1, at 1. On November 13, 2025, the protester filed this protest with our Office.⁹

⁹ Due to a lapse in appropriations, GAO was closed, including access to GAO’s Electronic Protest Docketing System (EPDS), effective at noon eastern time on Wednesday, October 1, 2025. As part of its orderly shutdown of operations, GAO posted notices to its website and EPDS providing, in relevant part, that “[d]eadlines for the filing of new protests that fall on a day that GAO is closed are extended to the first day that GAO resumes operations.” GAO did not resume operations, including
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DISCUSSION

ECS principally asserts that the agency unreasonably failed to provide vendors with sufficient time to submit responses to the agency's amended requirements. In this regard, ECS argues that the agency's response deadlines, in some instances less than one hour, were unreasonable because it prevented vendors from making substantive and intelligent improvements to their quotations. Comments at 12-13. The agency counters that its allotted response times were sufficient and reasonable because the modifications required under the challenged amendments were minor, directed only to one product, and came with TRs through which the agency provided vendors with the "exact problems" with their quotations. MOL at 15-19. For the reasons that follow, we agree with the protester that under the circumstances here the agency failed to afford offerors a reasonable opportunity to respond to the agency's evolving requirements.¹⁰

Contracting officers are required to establish solicitation response times that will afford potential offerors a reasonable opportunity to respond. FAR 5.203(b); *see also* FAR 13.003(h)(2) (requiring contracting officers to "[e]stablish deadlines for the submission of responses to solicitations that afford suppliers a reasonable opportunity to respond"). What constitutes a reasonable opportunity to respond will depend on "the circumstances of the individual acquisition, such as the complexity, commerciality, availability, and urgency[.]" FAR 5.203(b). Where a protester contends that the agency allowed insufficient time for preparation of proposals, we require a showing that the time allowed was inconsistent with statutory requirements or otherwise unreasonable, or that it precluded full and open competition. *AeroSage, LLC*, B-415893, B-415894, April 17, 2018, at 4; *see also Latvian Connection, LLC*, B-411489, Aug. 11, 2015 (sustaining protest where the protester was provided less than 2 business days prior to revised closing date); *Info. Ventures, Inc.*, B-293541, Apr. 9, 2004, (same, where protester was afforded 1 business day to submit a capability statement); *Jack Faucett Assocs. Inc.*, B-279347, June 3, 1998 (same).

Here, we conclude that ECS was not allowed sufficient time to submit its responses to the solicitation amendments or the agency's technical revisions. As discussed above, the record reflects that beginning late in the afternoon on Friday, September 26 and continuing through the morning of Monday, September 29, the agency's requirements were undergoing rapid and material changes. For example, on Friday afternoon, the agency notified the protester that the requirement for Energy Star certification would be waived and that a previously proposed refrigerator, if proposed again, would make ECS's quotation "good to go." AR, Tab 11_C14, Sept. 26 Email at 1. The agency,

restoring access for new protest filings, until November 13, 2025. *See Oready LLC--Recon.*, B-424096.2, Jan. 5, 2026, at 2.

¹⁰ ECS raises a number of collateral protest allegations. Although our decision does not specifically address each of these arguments, we find that none of these arguments provide an alternative basis on which to sustain the protest.

however, never waived the Energy Star requirement and again rejected the re-proposed refrigerator. The agency then subsequently made material revisions to its requirements when it issued amendment 0008 on Sunday and provided vendors less than one hour to respond to the amendment with a revised quotation. AR, Tab 11_E13, Sept. 28 ECS Email 4 at 2-3. Similarly, amendments 0009 and 0010, both issued on the morning of Monday, September 29, which either modified previous requirements or imposed and then repealed new requirements, provided vendors 75 minutes and less than an hour to respond, respectively. AR, Tab 11_F2, Sept. 29 ECS Email 1 at 1; Tab 11_F9, Sept. 29 ECS Email 3 at 1. Under the circumstances, we find that ECS was not provided sufficient time in which to submit responses to the agency's ever-changing requirements issued in a series of amendments issued in quick succession.

Beyond the agency's response times to its amendments, we likewise find the amount of time the agency allotted to vendors to respond to technical revisions was likewise unreasonable. As an example, the agency notified the protester of the Vestel model 263 as a potential option through a phone call on the morning of Saturday, September 27. The agency effectively argues that because it had identified for the protester a potentially viable alternative, the relatively short response deadlines were reasonable. There are two principal flaws with the agency's argument. First, the Vestel model 263 was not in fact compliant with the RFQ's requirements when the agency notified the protester about the item on Saturday, September 27. Specifically, the agency initially rejected the Vestel model 263 proposed by the awardee because it did not include shelves in the freezer door; additionally, that model only has one crisper drawer. See, e.g., AR, Tab 5_P, Export 220V TR 8, at 13. The crisper drawer deficiency was not resolved until the agency issued amendment 0008 on Sunday, September 28 at 5:28 p.m. See AR, Tab 11_E13, Sept. 28 ECS Email 4 at 2-3; Tab 3_H, amend. 0008 at 8. The freezer door shelves deficiency was not resolved until the agency issued amendment 0010 at 10:30 a.m. on Monday, September 29. AR, Tab 11_F9, Sept. 29 ECS Email 3 at 1; Tab 3_J, amend. 0010 at 8. Thus, from the time when the agency relaxed its requirements to make the Vestel model 263 acceptable to when final proposal revisions were due at 12:35 p.m., ECS only had approximately 2 hours.

Second, even assuming that the Vestel model 263 was a viable option as of Saturday, September 27, it is not apparent that the product is sold or otherwise domestically available. Rather, it appears that the product is manufactured in Turkey, which is 8 hours ahead of the eastern time zone (where the protester is located) and 9 hours ahead of the central time zone (where the agency is located). See Current Local Time in Manisa, Turkey, available at <https://www.timeanddate.com/worldclock/@304827> (last visited on Feb. 3, 2026). On this record, we do not find it reasonable to have afforded the protester less than one business day to arrange for potential acquisition of products that are manufactured and apparently only available for purchase internationally. See ECS Supp. Comments, exh. B, Decl. of ECS Chief Exec. Officer at 1 (representing that ECS was unable to identify a point of contact for Vestel for purposes of obtaining pricing and availability, and that none of ECS's suppliers were "familiar with, or had even heard of, this brand").

We are also unpersuaded by the agency's arguments that the allotted response times were nonetheless sufficient and reasonable because the amendments made minor modifications to the RFQ, were narrowly-focused, and posted in conjunction with the vendors' TRs which provided specific information as to the problems with each vendors' quotation. See MOL at 15-19. First, as addressed above, the agency imposed evolving and very stringent requirements on the proposed refrigerators that appears may have only been able to be fulfilled by a single product that is manufactured in Turkey and not readily available for purchase in the United States, notwithstanding that the items will be delivered to a domestic location. Furthermore, the record reflects that because vendors were purchasing these items, rather than manufacturing these items themselves, the changes to the RFQ fundamentally changed which manufacturers vendors could purchase from. See Supp. Comments at 3 ("Simply because a product exists does not mean an offeror has access to it."). Under the circumstances presented in this protest, we find the time the agency allotted to vendors to respond to multiple amendments and technical revisions was unreasonable.¹¹

RECOMMENDATION

We recommend that the agency amend the solicitation to provide vendors a reasonable opportunity to submit revised quotations, evaluate those quotations, and make a new award decision. To the extent that the agency determines that a vendor other than Export 220Volt has submitted the lowest-price technically acceptable quotation, it should terminate the current contract for the convenience of the government and award to the next lowest-priced technically acceptable vendor, as appropriate. In addition, we recommend that the protester be reimbursed for its costs of filing and pursuing the

¹¹ The protester also argues that the agency's requirements were unduly restrictive of competition and failed to reflect adequate advanced acquisition planning. Agencies must specify their needs in a manner designed to permit full and open competition and may include restrictive requirements only to the extent they are necessary to satisfy the agencies' legitimate needs or as otherwise authorized by law. 41 U.S.C. § 3306(a). We note here that the agency's requirements for the refrigerator appeared to change as it became apparent that there is a lack of adequate, viable commercial items responsive to the initial requirements, and appear to establish a *de facto* brand name requirement only for the Vestel model 263. The agency may wish to consider whether the entirety of the RFQ's requirements in fact reflect the government's minimum needs, document the basis for the requirements, and, to the extent necessary, amend the RFQ to allow vendors a fair opportunity to compete for the government's actual requirements.

protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d). The protester's certified claims for such costs, detailing the time expended and costs incurred, must be submitted directly to the agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained.

Edda Emmanuelli Perez
General Counsel