



Decision

Matter of: LS3 Incorporated

File: B-401948.11

Date: July 21, 2010

Steven A. Roberts, for the protester.
Herman J. Narcho, Esq., Department of Labor, for the agency.
Nora K. Adkins, Esq., and Jonathan L. Kang, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Agency properly rejected proposal that included identifying information, where solicitation amendment explicitly required that all identifying information be redacted from proposals.

DECISION

LS3 Incorporated, of Upper Marlboro, Maryland, protests the rejection of its proposal by the U.S. Department of Labor, Employment and Training Administration, under request for proposals (RFP) No. DOL099RP20703 for enterprise information technology services to support the Office of Foreign Labor Certification system.

We deny the protest.

The RFP was initially issued as a total small business set-aside for section 8(a) firms, with a closing date for receipt of proposals of July 29, 2009. Award was made to Zolon Corporation on September 18. Following the award to Zolon, our Office received 10 protests regarding this procurement, which resulted in the agency taking multiple corrective actions. The agency's last corrective action revised various terms of the initial solicitation; these revisions were issued as amendment No. 6 on January 20, 2010.

The agency explains that, because some members of the technical evaluation panel (TEP) were former employees of the contractors competing for award, and due to the numerous protests against the procurement, amendment No. 6 contained a new requirement to insure anonymity of offerors, in order to achieve an unbiased evaluation. Agency Report at 5. Specifically, offerors were required to submit one

original copy of their technical proposal, and three copies that redacted all information regarding the identity of the offeror as follows:

The redacted proposal shall not contain ANY identifiable information that would allow the technical evaluation team to deduce the Offeror's identity. For example, the redacted (sanitized) copies of the proposal must be free of identifiers such as the Offeror's name, any logo or marking associated with the Offeror, the names of any individuals that the Offeror intends to propose as well as the names of officers or employees that the Offeror employs, has employed, or intends to employ. Failure to submit redacted copies of the proposal will result in a finding that the proposal is not acceptable.

RFP amend. 6, at 13.

Several offerors, including LS3, submitted revised proposals in response to the amendment. The contracting specialist determined that the redacted copies of LS3's proposal did not comply with the solicitation's redaction requirement because the executive summary of the protester's technical proposal included the company's logo. LS3's Redacted Volume I – Technical Proposal, Executive Summary at p. II. The contracting specialist then notified the contracting officer who determined that LS3's offer was unacceptable. DOL informed LS3 on April 15 that its proposal had been rejected as unacceptable pursuant to the terms of amendment No. 6.

LS3 asserts that it was improper for the agency to reject its proposal based on the redaction requirement. LS3 complains that while the executive summary section was part of its technical proposal, it was not subject to the redaction requirement because it was not included in the technical proposal page count.

Where 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. Alluviam LLC, B-297280, Dec. 15, 2005, 2005 CPD ¶ 223 at 2; Fox Dev. Corp., B-287118.2, Aug. 3, 2001, 2001 CPD ¶ 140 at 2.

Here, the agency's interpretation of the RFP was reasonable. The solicitation contained an explicit, mandatory requirement that an offeror's technical proposal "shall not contain ANY identifiable information that would allow the technical evaluation team to deduce the Offeror's identity." RFP amend. 6, at 13. Furthermore, the RFP explained the process by which an offeror could obtain a code to use throughout the redacted technical proposal in lieu of its company name or logo, and reminded offerors that only the cover letter to its technical proposal should contain a company's contact information. Id. While the redaction requirement did not specifically state whether the unnumbered pages of technical proposals were to

be redacted, nothing in the RFP indicated that the identifying information listed in these unnumbered sections was intended to be excluded from the redaction requirement, so as to relax the unequivocal general prohibition against identifying information set forth in the RFP. Absent such an express exception to the unequivocal requirement that all identifying information be redacted, there was no reasonable basis for LS3 to ignore the redaction requirement and interpret the requirement more loosely.¹ See SNAP, Inc., B-402746, July 16, 2010, 2010 CPD ¶ __.

Alternatively, LS3 asserts that interpreting the RFP as requiring offerors to redact the unnumbered pages from their technical proposals evidences a latent ambiguity of which it became aware only after its proposal was rejected. This argument is without merit. As discussed above, we find that the agency's reading of the RFP was the only reasonable one; in other words, the RFP was not ambiguous. However, even if we agreed that the instructions regarding required redactions were ambiguous, any ambiguity was patent rather than latent. That is, to the extent the redaction requirement led the protester to interpret the RFP as requiring redactions of only limited, specific information, that interpretation was inconsistent with requirement, which unequivocally required the redaction of all identifying information. Since any alleged ambiguity regarding these provisions was apparent from the RFP itself, a protest on this ground was required to be filed prior to the deadline for receipt of proposals. Bid Protest Regulations, 4 C.F.R. § 21.1(a)(1) (2010). LS3 did not protest until after rejection of its proposal; accordingly, this protest ground was not timely raised.

The protest is denied.

Lynn H. Gibson
Acting General Counsel

¹ Additionally, LS3 asserts that since the logo only appeared one time, out of over 250 pages, the agency could have easily scratched out the logo, not provided these pages to the technical evaluation team, or requested that LS3 submit a new executive summary with no logo present. An agency has no duty to correct or seek to correct errors in offerors' proposals, nor is an agency required to adapt its evaluation to comply with an offeror's submission. See HealthStar VA, PLLC, B-299737, June 22, 2007, 2007 CPD ¶ 114 at 2. Rather, it is the offeror that bears the burden of submitting an adequately written proposal by including all information that was requested or necessary for its proposal to be evaluated. Id.