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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Skyline ULTD, Inc.

File: B-408961

Date: December 27, 2013

Kristen E. Ittig, Esq., and Lauren J. Schlanger, Esq., Arnold & Porter LLP, for the protester.

William R. Korth, Esq., Department of Veterans Affairs, for the agency.

Kenneth Kilgour, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly canceled solicitation is denied where the record supports the agency determination that cancellation was appropriate because the solicitation did not accurately reflect the agency's requirements.

DECISION

Skyline ULTD, Inc., of Alexandria, Virginia, protests the cancellation of request for quotations (RFQ) No. VA119A-13-Q-0143, issued by the Department of Veterans Affairs (VA) for support for the Veterans Employment Services Office (VESO). The protester asserts that the agency's decision to cancel the RFQ lacked a reasonable basis.

We deny the protest.

The RFQ, issued August 7, 2013, provided for the award of a fixed-price contract, with a 1-year base period and two 6-month option periods, to the vendor whose quotation represented the best value to the government, considering three non-price factors and price. Under the contemplated contract, among other responsibilities, the contractor was required to establish and operate call centers providing coaching and assistance to support the recruitment and retention of veterans by the federal government. Performance Work Statement (PWS) § 5.7.1. Skyline submitted a timely quotation. Prior to making award, however, the agency canceled the solicitation. In response to an inquiry from the protester, the agency informed Skyline that the solicitation was canceled because "the Government no

longer has a need for the requirement as it was written in the solicitation.” Agency Report (AR), Tab 12, Email from Contracting Officer to Protester, Sept. 20, 2013 (emphasis added). Skyline then filed this protest.

Skyline asserts that cancellation of the solicitation was improper. Where, as here, an offeror challenges an agency’s decision to cancel a solicitation, the pertinent inquiry is whether there was a reasonable basis for the agency’s action, because an agency may cancel a solicitation at any time, when such a basis is present. VSE Corp., B-290452.2, Apr. 11, 2005, 2005 CPD ¶ 111 at 7. A reasonable basis for cancellation exists and cancellation is appropriate when a solicitation does not accurately reflect the agency’s requirements. Id. at 6. Further, where the record reflects that there was a reasonable basis to cancel the solicitation, we will not find that the agency abused its discretion, even though it may have taken a different course by amending the solicitation. Id. at 7; PBSI Corp., B-227897, Oct. 5, 1987, 87-2 CPD ¶ 333 at 2.

Here, the record demonstrates the reasonableness of the cancellation. In this regard, the RFQ estimated that under the contemplated contract, the contractor will be required to staff call centers that would handle, on average, 6,000 calls per month. PWS ¶ 5.7.1.1. Further, the record indicates that the call center requirement was a significant part of the overall requirement, as indicated by the protester’s own proposal, where the relevant line item constituted a significant portion of the protester’s total proposed price. See, AR, Tab 8, Protester’s Revised Proposal.

The agency, however, determined that its call estimate was significantly inflated. Specifically, in response to a complaint that the Veterans Employment Services Office was acquiring unnecessary services to support its operations, the VA’s Office of Inspector General (OIG) conducted a review of VESO’s acquisitions and, in a report dated June 25, 2013, presented its findings to VA’s Acting Assistant Secretary for Human Resources and Administration, who adopted the report’s recommendations. AR, Tab 17, VA OIG Report, June 25, 2013 at i, 1. One focus of that report was call center use and capacity. In this regard, the report indicated that call center volumes were so low that, during a 13-month period, call center employees handled an average of 2.4 calls per day. Id. at 2. In fact, after analyzing 13 months of calls, the OIG found that “call center capacity is excessive and call center operations are overstaffed by at least 50 percent.” Id. at 3-5. As a result, according to the agency,

VA has reviewed the solicitation and determined that VA needs to reassess the number of coaches necessary to meet the call center requirement and also reassess its needs for additional call center capacity in light of the OIG Report.

Supplemental Agency Report at 2.

Skyline neither questions the quality of the data gathered by the OIG, nor objects to the OIG's conclusions, including the determination noted above, that call center operations were overstaffed by at least 50 percent. Comments, November 21, 2013. Instead, Skyline dismisses the relevance of the OIG report on the basis that the report was issued prior to the development of the RFQ. Id. at 1, 3, 4. However, such a timing objection is irrelevant here; if a reasonable basis exists to cancel a solicitation, as here, an agency may cancel the solicitation regardless of when the information first surfaces or should have been known. See VSE Corp., supra, at 6.

While Skyline may be correct that the VA will continue to need call center operations, the protester has made no showing that the call center estimates in the solicitation were not significantly overstated. In these circumstances, we conclude that Skyline has furnished no basis on which to question the reasonableness of the agency determination to cancel the solicitation as not reflecting its actual needs.

The protest is denied.

Susan A. Poling
General Counsel