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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: United Globe Auto Body LLC

File: B-410738

Date: February 3, 2015

Razak Dosunmu for the protester.
Kay Bushman, Esq., Defense Logistics Agency, for the agency.
Paula A. Williams, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably rejected protester's proposal where record shows that the protester failed to submit evidence of a quality control plan as required by the terms of the solicitation.

DECISION

United Globe Auto Body LLC, of Takoma Park, Maryland, protests the award of contracts to Bahrain Petroleum Company B.S.C. of Sitra Port, Bahrain, and Hyundai Corporation of Daesan, South Korea, under request for proposals (RFP) No. SP0600-14-R-0007 issued by the Defense Logistics Agency, Defense Logistics Agency Energy (DLA Energy), for a quantity of Jet A1 fuel. United Globe contends that the agency improperly rejected its proposal for failing to comply with the solicitation's requirements for a quality control plan.

We deny the protest.

DLA Energy is the government agency responsible for acquiring energy related products and services for the Department of Defense worldwide and for federal civilian agencies. In support of its mission, DLA Energy is responsible for procuring large volumes of military and commercial specification aviation and marine diesel fuel for the military services.

Issued on April 28, 2014, and amended several times, the RFP sought to acquire aviation and fuel requirements for the Western Pacific and Middle East regions. RFP at 4-16. This protest involves the competition for providing 207,000,000 gallons of Jet A1 fuel. Id. at 4.

The solicitation contemplated awards of indefinite-quantity, fixed-price contracts with economic price adjustments for 1 year. Id. at 68. The RFP identified two evaluation factors--technical acceptability, and price. The technical acceptability factor included four equally-weighted subfactors: (1) supplies or services and price/costs (section B); (2) description/specifications/statement of work (section C); (3) inspection and acceptance (section E); and (4) deliveries or performance (section F). Id. at C-20. According to the RFP, the technical acceptability factor and subfactors were to be evaluated on an acceptable/unacceptable basis. Id.

Under each factor and subfactor, the RFP set forth detailed instructions regarding the preparation of proposals. As relevant here, with respect to inspection and acceptance (section E), the RFP described the government's requirements for a quality control plan (QCP). The required QCP is to reflect how the offeror will provide and maintain an inspection system during contract performance. Plans are required to include, among other things, the identification of key operational positions, a schematic diagram of plant facilities pertinent to the inspection system, indicating all inspection points, and a description of various operations, such as receiving, blending and compounding, sampling, testing, calibration, storage and handling, loading and shipping, records and reports, and corrective action. Id. at 27-28.

According to the RFP instructions, offerors were required to demonstrate, among other things, their "understanding of the quality assurance requirements in E1 of the solicitation and provide evidence of an acceptable inspection system via the submission and acceptance of the supporting documentation required under Section E." Id. at C-17. According to the solicitation, offerors could meet this requirement in one of two ways--by providing a copy of the dated coversheet and table of contents of an existing QCP, or submitting an outline of a proposed QCP, limited to 2 pages. Agency Report (AR) exh. 8, Offeror Submission Package, at O-10.

Several firms submitted proposals in response to the RFP, including United Globe. In its initial proposal, United Globe offered to provide 207,000,000 gallons of Jet A1 fuel with delivery by tanker as a ship-to-ship transfer near Nigeria. Id. exh. 23, United Globe's Proposal, at 7. After an initial evaluation, the agency decided to conduct discussions with all offerors to resolve areas of concern with their proposals.

By letter to United Globe dated July 31, 2014, the agency advised the firm of several areas of concern in its initial proposal. As relevant here, the agency informed United Globe that it did not provide evidence of a "previously approved" QCP or a "two page outline" of a QCP in its proposal. Id. exh. 31, Initial Discussion Letter to Protester, at 1 (July 31, 2014).

In response to the agency's concern, the protester indicated that it "will be using SGS to supervise plant production to meet specification and for testing product prior to shipping arrangement is made to ensure quality." Id. exh. 35, Protester's Response to Initial Discussion Letter, at 1 (July 31, 2014). In a series of e-mails, the agency again requested that the protester provide all of the requested information as soon as possible. United Globe responded by providing a commitment letter from Petrocam Trading Nigeria Limited, its proposed subcontractor that will provide the "standard specification Jet A1." The protester also stated that the Jet A1 fuel "will also be tested by SGS" and that SGS "will also provide [the agency] with a report." Id. exh. 38, E-mails between Agency and United Globe (Aug. 11, 2014).

On August 25, the agency informed United Globe that discussions would end on August 28 and requested final proposal revisions (FPRs) by August 29. Id. exh. 67, Agency Letter to United Globe, at 2 (Aug. 25, 2014). In that letter, the agency outlined the issues that remained unresolved with the protester's proposal. Specifically, the agency advised the protester that its proposal was deemed unacceptable under the inspection and acceptance subfactor because the firm did not submit a QCP. Id. at 2. The agency further advised the protester that "[a]ny items not resolved at this time must be resolved in the FPR or your offer may be considered technically unacceptable." Id. at 1.

The protester responded, in part:

Please be advice [sic] that you cannot deem my offer technical [sic] non-responsive until you place an order and I fail to deliver. I am willing [sic] able to make delivery on a purchase ordered [sic] issued today in three weeks at the price I offered. For your information some of the information you requested are [sic] proprietary trade secret that need [sic] to be protected from public and competitors.

* * * * *

I said I will hire SGS to do quality control [sic] this company is acceptable by all commercial and government administration [sic] worldwide in quality control, that should suffice.

Id. exh. 69, E-mail from United Globe (Aug. 25, 2014).

Based on the evaluation of United Globe's FPR, the agency concluded that United Globe's proposal was unacceptable on the basis that the firm did not provide evidence of a QCP, as required by the solicitation. United Globe's FPR was

eliminated from further consideration. Id. exh. 83, Final Technical Evaluation Report, at 2 (Sept. 8, 2014); exh. 96, Source Selection Decision Document, at 1 (Oct. 22, 2014). Following notification that its proposal was not selected for award, and receipt of a written debriefing, United Globe first filed an agency-level protest and a subsequent protest to our Office.

In its protest with our Office, United Globe contends that the agency impermissibly rejected its proposal as unacceptable for failing to submit any evidence of an existing QCP or an outline of a QCP, as required. The protester asserts that it did submit a QCP when it informed the agency that it would use the services of SGS to provide quality inspection and argues that the agency's award to higher priced offerors was unreasonable. We disagree.

We have long held that where a protester challenges the agency's evaluation and source selection, we will review the evaluation and award decisions to determine if they were reasonable, consistent with the solicitation's evaluation scheme, as well as procurement statutes and regulations. A protester's disagreement with the agency's judgment is not sufficient to establish that the agency acted unreasonably. Herman Constr. Group, Inc., B-408018.2, B-408018.3, May 31, 2013, 2013 CPD ¶ 139 at 3; Integrated Science Solutions, Inc., B-406987, B-406987.2, Oct. 10, 2012, 2012 CPD ¶ 290 at 9; SOS Int'l, Ltd., B-402558.3, B-402558.9, June 3, 2010, 2010 CPD ¶ 131 at 2.

Here, as noted above, offerors were required to demonstrate an understanding of the agency's quality assurance requirements and provide evidence of an acceptable inspection system by providing information on an existing QCP or an outline of a QCP. The record reflects that United Globe's initial proposal did not include either and the agency alerted the protester to this deficiency during multiple rounds of discussions. To the extent the protester maintains that the agency should have simply accepted the protester's representation that SGS would supervise plant production and would test the product to ensure quality as having adequately addressed the issue, the protester is mistaken. The solicitation clearly directed offerors to submit information evidencing an existing QCP, or an outline of a proposed QCP--the protester's general representations regarding the role of its subcontractor, SGS, clearly fail to address either requirement. AR exh. 35, Protester's Response to Initial Discussion Letter, at 1 (July 31, 2014). Given the protester's failure to follow the solicitation's instructions and provide the required QCP information, we have no basis to object to the agency's decision to reject United Globe's proposal. See American Sys., Corp., B-409632, June 23, 2014, 2014 CPD ¶ 188 at 4-5.

The protest is denied.

Susan A. Poling
General Counsel