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Comptroller General  
of the United States

United States Government Accountability Office  
Washington, DC 20548

# Decision

**Matter of:** Axxon International, LLC

**File:** B-412147

**Date:** December 22, 2015

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Art Ward, for the protester.

Lauren Didiuk, Esq., and Erin Masini, Esq., Department of Commerce, for the agency.

Laura Eyester, Esq., Cherie J. Owen, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Protest that agency misevaluated technical proposal is denied where record shows that protester's product was reasonably determined to be technically unacceptable for failing to meet specifications.

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## DECISION

Axxon International, LLC (Axxon), of Rock Hill, South Carolina, a small business, protests the Department of Commerce, National Oceanic and Atmospheric Administration's (NOAA) award of a purchase order to Freeman Marine Equipment, of Gold Beach, Oregon, under request for quotations (RFQ) No. NMAN7200-15-01787CE, for weather-tight marine doors for the NOAA Research Vessel Hi'ialakai. Axxon challenges the agency's rejection of its quotation as unacceptable.

We deny the protest.

## BACKGROUND

On August 7, 2015, NOAA issued a combined synopsis/solicitation, set aside for small businesses, for the award of 12 weather-tight exterior marine doors for NOAA Research Vessel Hi'ialakai, a ship operating out of Pearl Harbor, Hawaii, that conducts dive intensive missions. RFQ at 9; Agency Report (AR) at 1.<sup>1</sup> The RFQ

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<sup>1</sup> NOAA used a Bates numbering system in preparing the agency report. This decision uses the Bates numbers assigned by the agency for its citations.

provided for award on a best-value basis to the responsible vendor submitting the quotation that was most advantageous to the Government considering the following evaluation factors: (1) ability to meet the specifications per the statement of need; (2) delivery time; and (3) price. RFQ at 10. The RFQ specifically stated that offerors must supply all doors in accordance with the solicitation's statement of need, which set forth eight technical specifications. RFQ at 10; AR, Statement of Need, at 27-30. The RFQ further provided that the standard Federal Acquisition Regulation (FAR) clause 52.212-1, Instructions to Offerors-Commercial Items, applied to this acquisition. RFQ at 9. That clause requires that offers must include: "A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation." FAR clause 52.212-1(b)(4).

Four small businesses, including Axxon and Freeman Marine Equipment, submitted quotations by the August 17 closing date. Contracting Officer's Statement (COS) at 6. On August 18, the technical evaluator requested that Axxon provide a specification sheet after noting that the protester's quotation did not provide any specifications, which made it "hard to determine if in fact your quote is technically acceptable." AR, Tab 2, Original Bid Submission of Axxon, at 32-33. On August 19, Axxon stated in an email that "every **Statement Of Need** specification and requirement, is included in [the] bid pricing." Protest, Attach. 3, Post Bid Submission E-mails, at 5 (emphasis in original). On August 21, the technical evaluator again contacted Axxon requesting the following:

Please send drawing of the doors per my requirements and a picture of doors [that] you have constructed to this specification. The original drawings you supplied [do] not represent the door as specified in the original SON [statement of need], and there [are] no drawings showing a complete unit.

Id. at 2. That same day, Axxon provided a drawing depicting an example of a finished marine sandwich door, but noted that while the drawing showed glass wool insulation, Axxon instead would substitute a red cedar core. Axxon's reply further stated that it could not provide a finished photo of doors meeting the specifications since these would be customized doors. Id. at 1.

The technical evaluator subsequently determined that Axxon's quotation failed to demonstrate compliance with the following four requirements: (1) door core/insulation; (2) door panels; (3) dogs;<sup>2</sup> and (4) door hardware. COS at 6-7; AR, Tab 3, Technical Evaluation, at 42-44. As a result, on August 27, NOAA made award to Freeman Marine Equipment. On September 10, NOAA notified Axxon of the award; the agency later informed the protester that the technical evaluator had

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<sup>2</sup> Dogs are mechanisms used in marine architecture to fasten doors to their frames in order to provide weather-tight seals. AR at 2.

determined the doors quoted did not meet all of the specifications. AR, Tab 6, Notice of Award, at 64-66. Axxon subsequently filed a protest with this Office.

## DISCUSSION

Axxon challenges the agency's evaluation of its quotation as technically unacceptable, asserting that it addressed all of the agency's concerns in its quotation and subsequent e-mails to the agency. The agency maintains that Axxon's quotation was unacceptable for failure to comply with the specifications for the weather-tight marine doors.

It is a fundamental principle in a negotiated procurement that a proposal that fails to conform to a material solicitation requirement is technically unacceptable and cannot form the basis for award. See The Boeing Company, B-311344 et al., June 18, 2008, 2008 CPD ¶ 114 at 54; TYBRIN Corp., B-298364.6, B-298364.7, Mar. 13, 2007, 2007 CPD ¶ 51 at 5. In reviewing protests of an agency's evaluation, our Office does not reevaluate vendors' quotations; rather, we review the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation. 4D Sec. Solutions, Inc., B-400351.2, B-400251.3, Dec. 8, 2008, 2009 CPD ¶ 5 at 4. A vendor is responsible for affirmatively demonstrating the merits of its quotation and risks the rejection of its quotation if it fails to do so. Id.

Here, the solicitation clearly stated that an offerors' quotation for the doors must meet all of the specifications set forth in the statement of need, RFQ at 10, and incorporated a requirement that the quotation must include a technical description of the items being offered sufficient to show compliance with the solicitation requirements. RFQ at 9; FAR clause 52.212-1(b)(4). Axxon submitted several drawings of doors to demonstrate compliance. The technical evaluator reviewed the quotation, especially the drawings, and concluded that Axxon had failed to demonstrate compliance with several specification requirements. For example, the solicitation required that the door panels must be fully welded, corrosion resistant, stainless steel panels inside and out. RFQ at 27. A fully welded door means the insulation core is sandwiched between the outer and inner door skins, which are formed around the core to create the door edges. Declaration of NOAA Vessel Port Engineer and Technical Evaluator at 1. The two molded edges are welded together to result in a four-sided, solid door structure. Id. The evaluator found that Axxon's drawings did not show that the doors were fully welded, with the insulation core sandwiched between the outer and inner door skins and with stainless steel panels inside and out, but instead showed a one-piece, stamped steel door where the door insulation is placed behind a backer panel that is attached to the inner portion of the stamped door with fasteners. AR, Technical Evaluation, at 42; see Declaration of NOAA Vessel Port Engineer and Technical Evaluator at 1.

In addition, the solicitation required that each door have two dogs, RFQ at 27, but the evaluator found that Axxon's drawings showed four dogs, AR, Technical Evaluation, at 43.<sup>3</sup> Further, the solicitation required that the door have three stainless steel strap-style hinges, RFQ at 28, but the evaluator found that Axxon's drawings showed only two hinges, which were not strap-style, AR, Technical Evaluation, at 43.<sup>4</sup>

Axxon has not claimed that the drawings it furnished showed compliance with the solicitation requirements. While Axxon notes that it advised the agency that its doors met "every **Statement Of Need** specification," Protest, Attach. 3, Post Bid Submission E-mails, at 5 (emphasis in original), such blanket statements of compliance are generally not sufficient to demonstrate technical acceptability; rather, an offeror must affirmatively establish compliance with the requirements. Trimble Navigation Ltd., B-258672, Jan. 30, 1995, 95-1 CPD ¶ 138 at 8. Moreover, Axxon furnished drawings that indicated noncompliance with the specifications in several respects. Axxon contends that its quotation contained only "example" drawings that were "never intended to represent an actual drawing of the door [Axxon] actually planned to fabricate." Comments at 1. We find this argument unavailing. It is a vendor's responsibility to submit a well-written quotation with adequately detailed information that clearly demonstrates compliance with the solicitation requirements. InTec, LLC, B-408178.4, Feb. 12, 2014, 2014 CPD ¶ 109 at 4. Since Axxon failed to demonstrate that its proposed doors would meet the specifications, we find that the agency reasonably concluded that Axxon's quotation technically unacceptable.

The protest is denied.

Susan A. Poling  
General Counsel

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<sup>3</sup> The agency has explained that four dogs do not meet or exceed the specifications because the additional two dogs are not needed for daily operation, do not add any value, and will require additional maintenance. Declaration of NOAA Vessel Port Engineer and Technical Evaluator at 2.

<sup>4</sup> Strap-style hinges are typical door hinges that consist of two, flat pieces of metal that interlock with each other to form a cylindrical pivot point and are held together with a common pin; since they are not welded to the door, they can be easily replaced. Declaration of NOAA Vessel Port Engineer and Technical Evaluator at 1-2. Axxon's drawings showed hinges that are welded to the door, which cannot be easily replaced and are on the outside of the doors, subjecting all of the hinge elements to weather conditions. Id. at 2.