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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: ABSG Consulting, Inc.

File: B-413155.14

Date: October 12, 2016

John F. Duncan for the protester.

Kristen M. Nowady, Esq., and Christopher Murphy, Esq., General Services Administration, for the agency.

Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where solicitation required offerors to provide evidence of past experience “within a verifiable contractual document,” the agency reasonably determined that protester’s submission of an unsigned contract document was insufficient to meet the solicitation’s requirements.

DECISION

ABSG Consulting, Inc., of Arlington, Virginia, protests its elimination from consideration under request for proposals (RFP) No. GS02Q15CRR0001 (frequently referred to as the Human Capital and Training Solutions (HCaTS) solicitation) issued by the General Services Administration (GSA) to provide training and development services across the federal government. ABSG asserts that the elimination of its proposal was unreasonable and inconsistent with the terms of the solicitation.

We deny the protest in part and dismiss it in part.

BACKGROUND

On August 17, 2015, the agency published the solicitation at issue, seeking proposals for “customized training and development services, customized human capital strategy services, and customized organizational performance improvement services.” Agency Report (AR), Tab 1, RFP at 21. The solicitation contemplated multiple awards of indefinite-delivery, indefinite-quantity (IDIQ) contracts under which task orders will subsequently be issued. The solicitation covered eight North

American Industry Classification System (NAICS) codes, and was divided into two separate “Pools” based on different small business size standards.¹ RFP at 98-99. Offerors were permitted to compete in either of the pools, and the agency established a target of 40 awards for each pool. Id. at 98.

The solicitation provided for award on a best-value basis² and established various minimum requirements, including specific requirements for past experience. In this regard, the solicitation stated:

For an Offeror to be eligible for consideration under a given Pool, the Offeror shall have performed six Relevant Experience Projects [REP], with four of those Relevant Experience Projects under a NAICS Code that corresponds directly to a NAICS Code in the Pool being applied for. . . . Each Relevant Experience Project shall meet the minimum requirements as prescribed in Section L.5.2.2.³

Id. at 127.

The solicitation further provided that each offeror must substantiate its claimed experience by providing sufficient evidence “within a verifiable contractual document,” adding that an offeror “shall only receive credit . . . if the Government can validate the information,” and listed “signed, certified and/or legally recognized documents” as examples of such “verifiable contractual document[s].” Id. at 131-32. The solicitation also stated that “CPARS [contractor performance assessment reporting system] . . . reports . . . shall not be used to substantiate scope, period of performance, and total estimated/obligated dollar value” of an offeror’s claimed experience. Id. at 131. Finally, the solicitation provided that an offeror “will not be allowed to resubmit or revise any document(s) related to the Relevant Experience Projects”; advised that the agency “intends to strictly enforce all of the proposal submission requirements”; and warned that failure to meet the experience requirements “may result in the proposal being rejected.” Id. at 128, 151-52.

On or before the December 3, 2015 closing date, the agency received 115 proposals, including a proposal submitted by ABSG. Contracting Officer’s Statement at 2. Of relevance to this protest, ABSG’s proposal included a copy of an

¹ The size standard was \$11 million for Pool 1 and \$15 million for Pool 2. RFP at 98-99.

² The solicitation stated that awards would be made based on the proposals that were “Highest Technically Rated with Fair and Reasonable Prices (HTRFRP).” Id. at 151.

³ Among other things, RFP section L.5.2.2 established certain requirements regarding scope, size, and period of performance. Id. at 131-34.

“Order for Supplies and Services” (optional form 347) that was unsigned by either ABSG or any government agency, along with a CPARS report, to substantiate its claimed experience. Protest at 2-3.

Thereafter, the agency concluded that, because the order for supplies and services was unsigned, it did not constitute sufficient “evidence within a verifiable contractual document” to substantiate ABSG’s claimed experience. Further, since the solicitation specifically precluded reliance on CPARS reports to substantiate the scope, period of performance, or dollar value of claimed experience, the agency concluded that neither document was sufficient to substantiate ABSG’s claimed experience. Accordingly, the agency eliminated ABSG’s proposal from further consideration, notifying ABSG of that action on May 13. On May 23, ABSG filed an agency-level protest challenging its elimination. On June 29, the agency denied that protest. On July 11, ABSG filed this protest with our Office.

DISCUSSION

ABSG asserts that the unsigned contract document and CPARS report should have been considered sufficient to meet the solicitation requirements regarding substantiation of ABSG’s experience. Alternatively, ABSG asserts that the agency was obligated to validate ABSG’s claimed experience by either contacting the contracting officer identified in the unsigned document or conducting a “search for the contract in an official Government IT [information technology] system or website.” Protest at 3-4.

The agency responds that ABSG’s unsigned document “is nothing more than a draft document with no legally binding effect on either party,”⁴ and that the solicitation expressly precluded relying on the CPARS report. AR, Memorandum of Law, at 7. The agency further responds that the terms of the solicitation did not provide for the agency to seek additional information, beyond that contained within the offerors’ respective proposals, in determining whether the proposals met the solicitation requirements.⁵ *Id.* at 9-10.

In reviewing protests challenging an agency’s evaluation, our Office does not reevaluate proposals; rather, we review the record to determine whether the evaluation was reasonable, consistent with the terms of the solicitation, and

⁴ In conducting this procurement, the agency has consistently viewed unsigned contract documents as insufficient to substantiate claimed experience. See Sevatec, Inc., B-413155.11, Aug. 24, 2016, 2016 CPD ¶ 229 at 3; RGS Assoscs., Inc., B-413155.5, Aug. 30, 2016, 2016 CPD ¶ 248 at 3-4.

⁵ The solicitation stated: “The Government intends to award contracts without discussions.” RFP at 151.

compliant with procurement statutes and regulations. See, e.g., Alutiiq Tech. Servs. LLC, B-411464, B-411464.2, Aug. 4, 2015, 2015 CPD ¶ 268 at 4; Silverback7, Inc., B-408053.2, B-408053.3, Aug. 26, 2013, 2013 CPD ¶ 216 at 3. Offerors are responsible for submitting proposals that comply with the solicitation requirements and provide information that allows meaningful review by the procuring agency. See Hallmark Capital Grp., LLC, B-408661.3 et al., Mar. 31, 2014, 2014 CPD ¶ 115 at 9.

Here, as noted above, the solicitation specifically provided that an offeror's claimed experience must be substantiated by "evidence within a verifiable contractual document"; added that an offeror "shall only receive credit . . . if the Government can validate the information; listed "signed, certified and/or legally recognized documents" as examples of such "verifiable contractual documents"; and expressly precluded reliance on CPARS reports to substantiate the scope, period of performance, and dollar value of claimed experience. Id. at 131-32. Further, the solicitation provided that revision or resubmission of documents would not be permitted, stated that the agency intended to "strictly enforce all of the proposal submission requirements," and warned that failure to meet the experience requirements "may result in the proposal being rejected." Id. at 128, 131-32, 152.

On this record, we find no basis to question the reasonableness of the agency's determination that ABSG's unsigned documentation and CPARS report were insufficient to meet the solicitation's experience requirement for substantiating ABSG's prior experience.⁶ Further, since the solicitation expressly provided that an offeror's claimed experience must be substantiated by evidence "within a verifiable contractual document," we reject ABSG's assertion that the agency should have

⁶ AGSG argues that the solicitation was ambiguous as to whether an unsigned contract document would be sufficient to substantiate past experience. However, to the extent the solicitation was ambiguous, such ambiguity was clear from the face of the solicitation. That is, the solicitation specifically provided that a signed contract document could be sufficient to substantiate claimed experience, but did not discuss an unsigned document. RFP at 131-32. A patent solicitation ambiguity must be protested prior to the closing date for submission of proposals and, where it is not, we will dismiss as untimely a subsequent protest based on such alleged ambiguity. See 4 C.F.R. § 21.2(a)(1); Pate Construction Co., Inc., B-410211, Nov. 17, 2014, 2014 CPD ¶ 341 at 4; U.S. Facilities, Inc., B-293029, B-293029.2, Jan. 16, 2004, 2004 CPD ¶ 17 at 10. Since ABSG did not protest the terms of the solicitation prior to submitting its proposal, it may not, now, rely on the alleged ambiguity to challenge the agency's actions; its assertions challenging the agency's interpretation of the solicitation's requirements are dismissed.

sought additional information, beyond that submitted by the offeror, in order to validate an offeror's claimed experience and determine whether its proposal met the solicitation's requirements.⁷

The protest is denied.

Susan A. Poling
General Counsel

⁷ As noted above, the solicitation advised offerors that the agency intended to make contract awards without conducting discussions. RFP at 151.