



Decision

Matter of: The Severson Group

File: B-414999

Date: September 26, 2017

Robert Severson, The Severson Group, for the protester.
Laura A. Larkin, Esq., Department of the Navy, for the agency.
Robert T. Wu, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest challenging the rejection of proposal as late is denied where the record shows that the solicitation was unambiguous with respect to the date and time for receipt of proposals, and the protester's proposal was late.

DECISION

The Severson Group, of Carlsbad, California, protests the rejection of the firm's proposal as late by the Department of the Navy, Naval Facilities Engineering Command, under request for proposals (RFP) No. N40085-17-R-0004 for custodial services. Severson argues that its proposal was timely submitted because the agency's subsequent amendments to the solicitation, which extended the date and time for receipt of proposals were confusing.

We deny the protest.

BACKGROUND

The RFP, issued on May 30, 2017, sought proposals for custodial services with proposals due on June 30, 2017, at 12:00 p.m., local time, which here is Eastern Time (ET). Agency Report (AR), Tab 2, RFP, at 1. On June 26, 2017, the agency issued Amendment No. 0001, which, among other things, extended the due date and time for proposals to "10:00 am Eastern Standard Time on 07 July 2017." AR, Tab 3, Amendment No. 0001, at 1. The agency issued Amendment 0002 on June 29, 2017, and Amendment 0003 on July 5, 2017, which both stated, in pertinent part, "[t]he due date and time remains 10:00 am Eastern Standard Time on 07 July 2017." AR, Tab 4, Amendment No. 0002, at 1; Tab 5, Amendment No. 0003, at 1.

The RFP incorporated Federal Acquisition Regulation (FAR) provision 52.215-1, which states, in pertinent part, “[o]fferors are responsible for submitting proposals . . . so as to reach the Government office designated in the solicitation by the time specified in the solicitation. . . . Any proposal . . . received at the Government office designated in the solicitation after the exact time specified for receipt of offers is ‘late’ and will not be considered. . . .” RFP at 136; FAR § 52.215-1.

The protester submitted its proposal on July 7, 2017, at 10:08 a.m. ET. AR, Tab 6, Rejection of Late Proposal, at 1. In a memorandum dated July 19, the contracting officer informed Severson that the firm’s proposal was received after the time specified in the solicitation, and as a result was to be held until after award and then retained with other unsuccessful offerors. Id.

This protest followed.

DISCUSSION

Severson argues that the RFP was “clearly confusing” because the amendments to the RFP only stated that the time for receipt of proposals was extended, when, in fact, “the time of delivery had **changed** from the original time of 12:00 pm to 10:00 am. . . .” Protest at 2 (emphasis in original). The protester asserts that its proposal was timely submitted “because the time-of-delivery had changed but was not clearly stated in Amendment (1).”¹ Id. We disagree.

It is an offeror’s responsibility to deliver its proposal to the proper place by the proper time, and late delivery generally requires rejection of the proposal. FAR § 15.208; Shirlington Limousine & Transportation, Inc., B-299241.2, Mar. 30, 2007, 2007 CPD ¶ 68 at 3. An offer that arrives late may only be considered if it is shown that the paramount reason for late receipt was improper government action, and where consideration of the proposal would not compromise the integrity of the competitive procurement process. Sector One Security Solution, B-400728, Dec. 10, 2008, 2008 CPD ¶ 224 at 2-3.

The record shows that Severson’s proposal was delivered to the location specified in the RFP on July 7, at 10:08 a.m. ET, via FedEx. AR, Tab 6, Rejection of Late Proposal, at 2. There is nothing in the record that would serve to contradict this evidence, or show that improper government action was a reason for the proposal being delivered after the time specified for receipt of proposals. Therefore, the record shows that the proposal was late and reasonably rejected by the agency.

¹ Severson does not challenge that its proposal was submitted after 10:00 a.m. ET on July 7, 2017.

While Severson argues that the language of the RFP was “clearly confusing,” our review of the record shows that the language was unambiguous. Where a dispute exists as to a solicitation’s actual requirements, we begin by examining the plain language of the solicitation. Point Blank Enters., Inc., B-411839, B-411839.2, Nov. 4, 2015, 2015 CPD ¶ 345 at 3. If the solicitation language is unambiguous, our inquiry ceases. Desbuild Inc., B-413613.2, Jan. 13, 2017, 2017 CPD ¶ 23 at 5. We resolve questions of solicitation interpretation by reading the solicitation as a whole and in a manner that gives effect to all provisions; to be reasonable, and therefore valid, an interpretation must be consistent with such a reading. Id.

As discussed above, the solicitation initially set the time for receipt of proposals as 12:00 p.m. ET. RFP at 1. Amendment 0001 extended the date and time for receipt of proposals from June 30 at 12:00 p.m. to July 7 at 10:00 a.m. AR, Tab 3, Amendment No. 0001, at 1. Amendments 0002 confirmed the 10:00 a.m. submission time. AR, Tab 4, Amendment No. 0002, at 1. Amendment 0003, as the final and controlling amendment to the solicitation, unambiguously states, “[t]he due date and time remains 10:00 am Eastern Standard Time on 07 July 2017.” AR, Tab 5, Amendment No. 0003, at 1. As the RFP was unambiguous in this regard, our inquiry, therefore, ceases. Accordingly, we find nothing objectionable about the agency’s decision to reject Severson’s late submission in light of the solicitation’s unambiguously stated deadline for receipt of proposals. See Shirlington Limousine, supra, at 3.

The protest is denied.

Susan A. Poling
General Counsel