



Decision

Matter of: The Congaree Group, LLC

File: B-415242

Date: November 6, 2017

James E. Smith, for the protester.

Deborah K. Morrell, Esq., and Donald C. Mobly, Esq., Department of Veterans Affairs, for the agency.

Nora K. Adkins, Esq., and Amy B. Pereira, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly disclosed the protester's proprietary information regarding the location of a parking lot used in the performance of its predecessor contract is denied where the information disclosed cannot reasonably be considered proprietary and the protester has made no showing that it is competitively disadvantaged by release of the information.

DECISION

The Congaree Group, LLC, a service-disabled veteran-owned small business located in Columbia, South Carolina, protests the terms of request for proposals (RFP) No. VA247-17-R-0800, which was issued by the Department of Veterans Affairs (VA) for valet parking services at the Ralph H. Johnson VA Medical Center located in Charleston, South Carolina. Congaree, the incumbent contractor, contends that the VA improperly disclosed the protester's proprietary information regarding the location of the parking lot used in its performance of the predecessor contract for valet services.

We deny the protest.

BACKGROUND

On August 18, 2017, the VA issued the RFP as a service-disabled veteran-owned set-aside, pursuant to the commercial item acquisition and simplified acquisition procedures of Federal Acquisition Regulations (FAR) part 12 and subpart 13.5, for the award of a fixed-price contract for a 1-year based period with four 1-year options. RFP at 1, 18. The solicitation sought a contractor to provide qualified personnel, labor,

materials, maintenance, security, and supervision necessary to provide fast, efficient, and professional valet parking services at the contractor's offsite parking location for patients of the Ralph H. Johnson VA Medical Center. Id. at 18. The RFP required that the contractor's offsite parking location be capable of accommodating approximately 250 vehicles per day and be within a 10-minute drive from the medical center. Id.

The agency issued amendment No. 1 to the solicitation on August 24 to update various solicitation provisions. RFP amend. No. 1 at 1-6. On August 31, the agency issued amendment No. 2 to address offerors' questions. RFP amend. No. 2, at 1. As part of this amendment, the agency disclosed that the incumbent contractor was "The Congaree Group" and that its offsite parking location was the "Comfort Inn, 144 Bee Street, Charleston, SC 29401." RFP amend. No. 2 at 1. On September 6, the agency issued amendment No. 3 to update the location of the incumbent's offsite parking location as follows: "Comfort Inn, 144 Bee Street, Charleston, SC, 29401 & Holiday Inn Charleston-Riverview, 301 Savannah Highway, Charleston, SC, 29407." RFP amend. No. 3, at 2.

On September 7, the protester contacted the agency to inform the contracting officer that the Comfort Inn is not and never has been used by Congaree in the performance of its incumbent valet services contract. Contracting Officer Statement at 2; Protest at 2. The protester also informed the contracting officer that it believed that the VA had improperly released its proprietary information regarding its offsite parking location. Id.

On September 8, the protester filed this protest with our Office.

DISCUSSION

Congaree contends that the agency's answers to offerors' questions disclosed proprietary information about Congaree's offsite parking location under its incumbent contract, which resulted in competitive harm to Congaree.

We have recognized the right of a firm to protect its proprietary data from improper exposure in a solicitation in the context of a bid protest. Centerra Group, LLC, B-412271.2, B-412271.3, Feb. 26, 2016, 2016 CPD ¶ 101 at 4. As a general rule, proprietary information is that which is marked proprietary or otherwise submitted in confidence to the government. Id. Where a protester alleges that such information was improperly disclosed, the record must show that the material involved significant time and expense in preparation and contained material or concepts that could not be independently obtained from publicly available literature or common knowledge, and establish that the protester was competitively prejudiced by the release, before we will sustain the protest. Rothe Dev., Inc., B-279839, July 27, 1998, 98-2 CPD ¶ 31 at 2-3.

Here, based on our review of the record, we do not believe that the information disclosed by the agency could reasonably be considered proprietary to the protester or that its disclosure resulted in any competitive disadvantage to Congaree. As the agency asserts, the location of the incumbent valet services offsite parking lot is readily

discernable from publically available information (e.g. parking at the medical center and using the valet services), and Congaree has never requested that the location of its offsite parking lot be protected as proprietary. Contracting Officer Statement at 2. Thus, we find that there could have been no reasonable expectation that the location of Congaree's offsite parking lot would be treated as proprietary and, accordingly, its release is not objectionable.

Moreover, we fail to perceive how the location of the parking lot would result in a competitive disadvantage. At best, it may have operated to normalize the competition to a small degree once offerors became aware of possible offsite parking locations, but it did not reveal (or otherwise aid in the revelation of) any agreement between Congaree and the Holiday Inn (i.e. terms, pricing, etc.). In addition, as the protester acknowledges, the agency incorrectly provided two locations, one which Congaree has never used. Protest at 2. Thus, even if we were to conclude that the location of Congaree's offsite parking lot was proprietary, the effect of releasing the information on Congaree's competitive position under the terms of the RFP is speculative at best and, therefore, provides no basis for sustaining the protest.

The protest is denied.

Susan A. Poling
General Counsel