



**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

# Decision

**Matter of:** BDO USA, LLP

**File:** B-416504.2

**Date:** May 22, 2019

---

James W. Kim, Esq., McDermott Will & Emery LLP, for the protester.  
Colonel C. Taylor Smith and Lieutenant Colonel Byron Shibata, Department of the Air Force, for the agency.  
Charmaine A. Stevenson, Esq., and Laura Eyester, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

## DIGEST

Protest challenging the agency's rejection of the protester's quotation as ineligible for award under a solicitation issued to vendors under the General Services Administration's Professional Supply Schedule is sustained, where the agency failed to consider certain information provided by the protester to establish that it satisfied the facility clearance requirements set forth in the solicitation.

---

## DECISION

BDO USA, LLP (BDO), of Chicago, Illinois, protests its exclusion from the competition by the Department of the Air Force, United States Transportation Command under request for quotations (RFQ) No. HTC711-18-Q-D011 for joint financial operations and systems support services. The protester contends that the agency improperly concluded that its quotation was ineligible for award.

We sustain the protest.

## BACKGROUND

The agency issued the RFQ on April 24, 2018, to holders of General Services Administration (GSA) Federal Supply Schedule (FSS) Professional Services Schedule (PSS) contracts using Federal Acquisition Regulation (FAR) subpart 8.4 procedures. Agency Report (AR), Tab 3, RFQ, at 1, 6. The services required include accounting and financial operations, audit readiness in compliance with generally accepted accounting principles, and a broad spectrum of systems support for the agency. AR, Tab 4, Performance Work Statement (PWS), at 1.

As relevant to the protest, the RFQ required that an offeror<sup>1</sup> submit a cover letter identifying the commercial and government entity (CAGE) code and GSA PSS contract number of the prime and any teaming partner/subcontractor.<sup>2</sup> RFQ at 3. The RFQ also required that contractors complete the Department of Defense Contract Security Classification Specification form (DD Form 254) provided with the RFQ. Id.; see also, AR, Tab 7, RFQ, attach. 4, DD Form 254. The PWS included requirements for information technology and automated data processing that mandated the contractor have a secret-level or higher facilities clearance (FCL). PWS at 32. The RFQ stated that award would be made to the offeror whose quotation conformed to the solicitation requirements, to include all terms, conditions, representations, certifications, and all other information required by the solicitation and offered the best value to the government, considering technical capability, past performance and price. RFQ at 7.

On May 24, BDO timely submitted a quotation, in which it identified its CAGE code as 6YTU0 and GSA PSS contract number GS-00F-149CA. AR, Tab 12, Email with BDO Cover Letter and Attachments, May 24, 2018, at 6. BDO's DD Form 254 indicated it possessed a secret FCL located in [DELETED], and identified its CAGE code as 6YTU0. Id. at 16. Because the only CAGE code identified in BDO's GSA PSS contract was 32ZC7, the agency performed research as well as sought clarification from BDO, but ultimately concluded that BDO was ineligible for award because the BDO entity holding the GSA PSS contract did not have an active secret-level FCL. After receiving notice that it was ineligible for award, BDO protested to our Office, arguing that the ineligibility determination was improper because its quotation satisfied the RFQ requirements. On September 14, our Office denied the protest because we found that BDO's quotation and subsequent clarifications did not clearly establish that it satisfied the RFQ's requirements. BDO USA, LLP, B-416504, Sept. 14, 2018, 2018 CPD ¶ 322.

On November 1, the agency cancelled the solicitation because it concluded that none of the quotations received complied with the terms and conditions of the solicitation. Contracting Officer's Statement (COS) at 5; AR, Tab 22, RFQ amend. 2. However, on January 2, 2019, the agency reissued the solicitation without revision. AR, Tab 23, RFQ amend. 3. That same day, the agency notified BDO that the RFQ had been "restored," and requested that BDO advise the agency of its "intent to work with GSA to

---

<sup>1</sup> Although firms who compete for orders under the FSS are generally referred to as "vendors," the record here uses the terms "offerors" and "vendors," interchangeably.

<sup>2</sup> The RFQ incorporated by reference FAR provision 52.204-16, Commercial and Government Entity Code Reporting. RFQ at 17. That provision explains that a CAGE code is an identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency CAGE Branch to identify a commercial or government entity. FAR provision 52.204-16(a). In addition, the provision states that an offeror must enter its CAGE code in its offer with its name and address or otherwise include it prominently in its proposal, the CAGE code entered must be for that name and address, and a CAGE code is required prior to award. FAR provision 52.204-16(c).

update [its] CAGE code associated with PSS # GS-00F-149CA to be in compliance with the RFQ.” AR, Tab 24, Letter from Agency to BDO, Jan. 2, 2019. The agency further stated that the only revision it would allow BDO to make to the quotation it submitted in May 2018, would be to its CAGE code. Id.

On February 8, BDO timely submitted its quotation, and identified its CAGE code as 32ZC7, the same CAGE code identified in its GSA PSS contract. AR, Tab 28, Email with BDO Cover Letter and Attachments. In its quotation submission, BDO specifically advised the agency as follows:

The CAGE Code of the offeror’s Facility Security Clearance is 6YTU0 and a DUNS number of 05-739-9758. The address of the cleared facility is [DELETED].

Please note that CAGE Codes 32ZC7 and 6YTU0 are assigned to the same entity. Both CAGE Codes are associated with BDO USA, LLP and do not represent a parent-subsidary relationship. BDO is eligible for award as it is a single entity that possesses both a Secret Facility Security Clearance under CAGE Code 6YTU0 and a PSS Contract under CAGE Code 32ZC7. Per the solicitation Performance Work Statement’s requirements, BDO USA, LLP possesses a Secret Facility Security Clearance under CAGE Code 6YTU0 and maintains a PSS Contract under CAGE Code 32ZC7 at the time of proposal submission.

BDO is required by the Defense Logistics Agency to assign a separate CAGE code to the Facility Security Clearance held by BDO, which is associated with the branch office of BDO in [DELETED]. See attached printouts from [System for Award Management (SAM)] SAM.gov and CAGE that show BDO USA, LLP as the holder of two separate CAGE Codes and DUNS numbers.

Id.

On February 12, the agency notified BDO that its quotation remained ineligible for award. AR, Tab 39, Ineligible for Award Letter. In pertinent part, the agency explained its determination as follows:

Your [GSA PSS contract] is associated with CAGE Code 32ZC7, DUNS 047684840. CAGE Code 32ZC7 does not have an active FCL. In accordance with [Defense Security Service (DSS)] guidance, the entity that is awarded a classified contract must be the same cleared entity. In this instance, contract award must be made to CAGE Code 32ZC7 and CAGE Code 32ZC7 must have the active FCL. As a result, your quote has failed to comply with [the] RFQ requirements.

Id. This protest followed.

## DISCUSSION

The protester argues that the agency has again improperly concluded that it does not satisfy the RFQ requirements. The agency argues that it reasonably concluded that BDO did not satisfy the RFQ requirements and does not comply with DSS security requirements. As discussed below, we sustain the protest because we find that the agency's evaluation of BDO's quotation as ineligible for award was unreasonable.

### Timeliness

The agency initially argues that the protest is untimely because it constitutes a challenge to the FCL requirements of the RFQ, which BDO was required to raise prior to the due date for quotations. Request for Dismissal at 5-6. Specifically, the agency states: "Prior to its first protest, [BDO] was advised by the Agency that the PWS required the CAGE code corresponding to the GSA PSS match the CAGE code corresponding to its FCL clearance." *Id.* at 5. The protester argues that its protest relates to the agency's exclusion of BDO's proposal based on an improper and misapplied interpretation of the FCL requirements of the solicitation. Response to Req. for Dismissal at 2.

As noted, the PWS required that the contractor have an FCL at the secret or higher level, and specifically stated as follows:

The contractor must have and maintain a valid FCL at the SECRET level at [the] time of proposal submission. Interim FCLs are acceptable provided they are not expired. FCL procedures and security guidelines for adjudicative requirements are outlined in [Department of Defense] 5220.22-M [National Industrial Security Program Operating Manual] and FCLs and Interim FCLs must be awarded by the Defense Security Service Facility Clearance Branch.

PWS at 32; see also *id.* at 31 (requiring that the offeror "have a minimum [FCL] at the SECRET (or higher) level" related to the performance of background investigation requirements).

In our prior decision, the agency initially advised BDO that it was ineligible for award because the CAGE code it provided in its initial quotation (6YTU0) did not correspond to the GSA PSS contract BDO identified, and because the company did not have an active SAM registration. BDO USA, LLP, *supra*, at 3. We noted that the agency performed research and sought clarification from BDO, and that in response to the agency's request for clarification, BDO provided different and conflicting responses concerning its CAGE codes. *Id.* at 4. We specifically noted that BDO did not clearly explain until its comments on the agency report that the same BDO entity possessed two CAGE codes because DSS required its cleared facility to have a unique CAGE code (6YTU0). *Id.* at 5. Thus, we concluded that it was reasonable for the agency to find BDO's quotation

ineligible because the information available to the agency at the time it evaluated quotations did not establish that BDO satisfied the RFQ requirements. Id. at 6.

After the protest, the agency “restored” the RFQ and requested that BDO advise the agency of its “intent to work with GSA to update [its] CAGE code associated with PSS # GS-00F-149CA to be in compliance with the RFQ.” AR, Tab 24, Letter from Agency to BDO, Jan. 2, 2019. BDO did, in fact, work with GSA to update its GSA PSS contract and added the [DELETED] location as a point of production and added CAGE code 6YTU0 as an ordering site. Id., Email from BDO to GSA, Jan. 7, 2019. BDO then submitted its revised quotation.

The record shows that the agency used the CAGE codes provided in BDO’s revised quotation to confirm that it held a GSA PSS contract, as well as to establish compliance with the RFQ facility clearance requirements. In fact, the agency contacted multiple DSS offices to determine whether BDO had a secret-level FCL. See AR, Tab 36, Internal Agency Email, Feb. 11, 2019 (stating that DSS’s Saint Louis, Missouri field office confirmed that “CAGE code [32ZC7] does NOT have a FCL.”). In a communication with the Alexandria, Virginia field office of DSS, the following exchange occurred:

[Agency]: I am unable to determine whether what is being proposed by BDO is acceptable. BDO USA has responded to our Request for Quote using CAGE Code [6YTU0] on their DD254. However, the contract for this effort would need to be made to BDO CAGE Code 32ZC7. This contract has a SECRET FCL requirement. Can BDO have a contract issued to CAGE Code 32ZC7 but use the FCL from CAGE Code 6YTU0 to meet the FCL requirement? Therefore, the contract and FCL requirement would not be issued to the same CAGE Code. Also, are you able to provide insight into the relationship between BDO CAGE Code 32ZC7 and BDO CAGE Code 6YTU0?

[DSS]: In reference to the relationship between BDO CAGE Code 32ZC7 and BDO CAGE Code 6YTU0, BDO 32ZC7 does not appear to be cleared in the [National Industrial Security Program]. If the contract is for BDO CAGE Code 32ZC7, then the facility would need to be cleared to the appropriate level of the classified contract. . . .

AR, Tab 35, Emails between Agency and DSS Alexandria Field Office, Feb. 11, 2019. Following this exchange, the agency concluded that BDO did not satisfy the RFQ requirements. The contracting officer states: “DSS’s answer made clear they require the CAGE Code registered against the GSA PSS contract to match the CAGE code registered with DSS for an FCL. Based on DSS’s answer, BDO is not eligible for award since they do not meet either DSS’s facility clearance requirements or the RFQ requirements for the necessary FCL.” Request for Dismissal, attach. 1, CO Memorandum for Record, Mar. 4, 2019, at 1.

Based on these facts, we find that BDO first became aware of its basis of protest when the agency rejected its revised quotation. As noted, the only references to the FCL requirements are in the PWS, that the contractor must have and maintain a secret-level FCL, and the RFQ requirement that offerors submit a DD254. RFQ at 3; PWS at 31-32. The combination of these requirements was insufficient to reasonably place offerors on notice that multiple CAGE codes identified in their GSA PSS contracts would not meet this requirement. In addition, the prior GAO protest only established that BDO provided conflicting information to the agency concerning its CAGE code and that the agency's rejection of the quotation as a result of this conflicting information was reasonable. Further, after the protest, the agency's instructions to BDO were to work with GSA to update the firm's CAGE codes, which BDO did. Finally, the record shows that during its evaluation of BDO's revised quotation, the agency in fact remained undecided about whether BDO complied with the RFQ requirements concerning an FCL. AR, Tab 35, Emails between Agency and DSS Alexandria Field Office, Feb. 8-11, 2019. Thus, we find the protest timely.

#### BDO's Contentions About its Facility Clearance

BDO argues that a single corporate entity can be assigned multiple CAGE codes, and that its quotation clearly established that the same legal entity holds a GSA PSS contract and possesses a secret-level FCL. Protest at 6-11. The protester further argues that the agency has unreasonably interpreted the RFQ to require that the CAGE code identified with the offeror's GSA PSS contract number be identical to the CAGE code associated with its FCL. *Id.* at 11-12. The agency argues that it properly determined that BDO's quotation was ineligible for award. Memorandum of Law (MOL) at 10-18.

Where, as here, an agency issues an RFQ to FSS vendors under FAR subpart 8.4 and conducts a competition for the issuance of an order, we will review the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. Carahsoft Tech. Corp., B-401169, B-401169.2, June 29, 2009, 2009 CPD ¶ 134 at 3. It is well-established that a quotation that fails to conform to a solicitation's material terms and conditions is unacceptable and may not form the basis for an award. See Technology and Telecomms. Consultants, Inc., B-413301, B-413301.2, Sept. 28, 2016, 2016 CPD ¶ 276 at 12. We find that nothing in the record shows that the agency considered whether a quotation would be ineligible for award if only one of the two CAGE codes identified in an offeror's GSA PSS contract was associated with a cleared facility.

The agency states that DSS policy requires that a classified contract must be issued to a cleared entity and "DSS issues and tracks FCLs by CAGE code." COS at 12-13. The agency argues that Department of Defense Manual Number 5220.22 addresses FCL requirements for multiple facility organizations. The agency explains that since BDO is a multiple facility organization, "BDO USA needed to secure from DSS both a Secret

FCL clearance for its [DELETED] branch facility, and the same or higher FCL clearance for its Chicago, Illinois home-office facility.”<sup>3</sup> MOL at 12; see also Request for Dismissal, at 6-9 (arguing the same, and concluding that “[BDO’s] revised quote did appear to clear up some of the confusion created by its previous quote and protest.”).

In fact, as noted, CAGE codes are issued by the Defense Logistics Agency and are used to dispositively establish the identity of a legal entity for contractual purposes. See FAR § 4.1801; Gear Wizzard, Inc., B-298993, Jan. 11, 2007, 2007 CPD ¶ 11 at 2. CAGE codes are used to identify the entity that is the offeror for a given procurement. See W.B. Constr. & Sons, Inc., B-405874, B-405874.2, Dec. 16, 2011, 2011 CPD ¶ 282 at 4. Information readily available, such as CAGE codes, must reasonably establish that differently-identified entities are in fact the same concern. See Intelligent Invs., Inc., B-406347, B-406347.2, Apr. 27, 2012, 2012 CPD ¶ 193 at 4-5; W.B. Constr. & Sons, Inc., supra.

While it may be true that DSS uses CAGE codes to administer the National Industrial Security Program, the agency does not explain what connection this bears on whether BDO complied with the PWS requirement to have and maintain a secret-level FCL at the time of quotation submission. Here, the agency’s analysis of BDO’s compliance with the FCL requirements of the RFQ, based solely on the CAGE code identified in BDO’s cover letter, failed to account for the fact that a single entity could have multiple CAGE codes. As noted, BDO’s GSA PSS contract indicates that BDO has two CAGE codes, as follows:

- 26. Notification regarding registration in System for Award (SAM) database:
  - Cage Code # 32ZC7: Chicago, IL, National Headquarters
  - Cage Code # 6YTU0 [DELETED] Ordering Site

AR, Tab 18, BDO’s GSA PSS Contract, at 4. The contract also identifies the [DELETED] location as one of eight points of production. Id. at 3. BDO explained in its revised quotation submission that “CAGE Codes 32ZC7 and 6YTU0 are assigned to the same entity. Both CAGE Codes are associated with BDO USA, LLP and do not represent a parent-subsidary relationship. BDO is eligible for award as it is a single entity that possesses both a Secret Facility Security Clearance under CAGE Code

---

<sup>3</sup> We note that the National Industrial Security Program Operating Manual defines a multiple facility organization as “[a] legal entity (single proprietorship, partnership, association, trust, or corporation) composed of two or more contractors.” See Department of Defense Manual Number 5220.22, Appendix C, Definitions. As discussed further, BDO represents that it is not a multiple facility organization. See AR, Tab 28, Email with BDO Cover Letter and Attachments; see also Comments at 4 (“[I]f DSS believed BDO to be a [multiple facility organization] then it would have made the decision to clear the Chicago headquarters rather than BDO’s [DELETED] facility.”).

6YTU0 and a PSS Contract under CAGE Code 32ZC7.” AR, Tab 28, Email with BDO Cover Letter and Attachments.

The agency’s email communications with DSS indicate that the agency did not provide DSS with the information BDO provided in its quotation explaining that it was a single entity. See AR, Tab 35, Emails between Agency and DSS Alexandria Field Office, Feb. 11, 2019 (asking DSS “to provide insight into the relationship between BDO CAGE Code 32ZC7 and BDO CAGE Code 6YTU0?”). The agency also did not provide DSS with the RFQ or BDO’s quotation, or any other information regarding its proposed performance of the requirements, such that DSS could opine on whether BDO would fail to comply with the RFQ security requirements and/or DSS regulatory requirements.

The record also shows that the agency relied on communications with DSS regarding another offeror’s compliance with the FCL requirements to reach its conclusion that BDO’s quotation was ineligible. COS at 9. However, this series of emails suggests that DSS may have improperly equated a CAGE code with a single entity and/or did not fully comprehend the circumstances of the procurement and the basis for the agency’s inquiry. See AR, Tab 34, Emails between Agency and DSS New York Field Office, Sept.-Nov. 2018 (email from DSS office stating “I do not know what GSA PSS [contract] means . . .”). Notably, the agency itself provided DSS with multiple examples of task orders with FCL requirements that were issued against a contractor’s GSA PSS contract where the CAGE code identified in the contract was not identical to the CAGE code associated with the contractor’s FCL. Id. at 6. Under these circumstances, we find unreasonable the agency’s reliance on DSS’s responses to conclude that BDO’s quotation was ineligible.

There is also nothing in the record to support the agency’s contention that BDO was required to secure a facility clearance for its home office in Chicago, Illinois associated with CAGE code 32ZC7 because it is a multiple facility organization. Here, the record shows that none of the email communications with DSS address the issue of whether BDO was in fact a multiple facility organization that was not in compliance with DSS regulatory requirements. Based on our review of the record, we find that the agency’s evaluation of BDO’s quotation as ineligible for award was unreasonable.

## CONCLUSION AND RECOMMENDATION

We recommend that the agency reevaluate BDO’s quotation, giving consideration to the explanation provided by BDO in its quotation submission regarding its CAGE codes, consistent with the discussion above; make a new determination regarding BDO’s eligibility for award; and properly document its determination. To the extent necessary, the agency may find it appropriate to consult with other parties.<sup>4</sup> Should the agency find

---

<sup>4</sup> As noted, the agency restricted any revisions in BDO’s quotation to the CAGE code identified in BDO’s initial quotation, and requested that BDO advise the agency of its intent to “work with GSA to update [its] CAGE Code associated with PSS # GS-00F-

(continued...)



BDO eligible for award, we recommend that its quotation be evaluated, and if otherwise acceptable, that BDO be afforded an opportunity to compete for the task order at issue. In addition, we recommend that the agency reimburse the protester the reasonable costs of filing and pursuing its protest, including attorneys' fees. 4 C.F.R. § 21.8(d)(1).

The protester must submit its certified claim for costs, detailing the time expended and the costs incurred, directly to the agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

Thomas H. Armstrong  
General Counsel

---

(...continued)

149CA to be in compliance with the RFQ.” AR, Tab 24, Letter from Agency to BDO, Jan. 2, 2019. However, as also noted, the agency reinstated the RFQ without any revision. AR, Tab 23, RFQ amend. 3. The record shows that BDO was advised by GSA that it could “point to the [CAGE] approval by [the Defense Logistics Agency] and the updated SAM registration that reflects the addition of the [CAGE] Code and that will be sufficient to the [contracting officer], unless they have a specific requirement. In that case you must ask them to specifically outline their requirement.” AR, Tab 24, Email from GSA to BDO, Jan. 7, 2019. The contracting officer states that the agency first became aware of this communication on March 7, and that the agency “did not receive any additional requests from BDO USA, LLP to specifically outline the requirement.” COS at 5, n.1. To the contrary, however, the record indicates that BDO inquired about whether its revised quotation would comply with the RFQ in an email to the agency sent prior to submission of its revised quotation, the substance of which reflected that BDO intended to follow GSA’s advice. AR, Tab 27, Email from BDO to Agency, Feb. 7, 2019. The contracting officer states that the email indicated that BDO “was not going to perform the CAGE code modification to their GSA PSS contract,” but the agency declined to respond to BDO’s inquiry because the agency “did not want to comment on the acceptability of a proposed offer until we received the company’s official submission.” COS at 7. The agency may find it necessary to consult with GSA regarding the issuance of task orders with FCL requirements. The agency may also find it necessary to seek further clarification from BDO regarding its compliance with the FCL requirements, since security requirements are generally considered to be matters of responsibility. See Engility Corp, B-413202, B-413202.2, Sept. 2, 2016, 2016 CPD ¶ 251 at 8.