



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: DeWitt and Company, Inc.

File: B-417194

Date: March 25, 2019

Christopher R. Shiplett, Esq., Randolph Law, PLLC, for the protester.
James G. Nowogrocki, Esq., Heyl Royster, for Gateway to Outdoor Solutions, LLC, the intervenor.

Jason A. M. Fragoso, Esq., Department of Veterans Affairs, for the agency.
Paula A. Williams, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's evaluation and the selection of a lower-priced quotation rated as technically equal to the protester's is denied where the record shows that the agency's evaluation and selection decision were reasonable and consistent with the terms of the solicitation.

DECISION

DeWitt and Company, Inc. (DeWitt), a service-disabled veteran-owned small business (SDVOSB) located in Newman, Georgia, protests the issuance of an order to Gateway to Outdoor Solutions, LLC (Gateway), a SDVOSB located in St. Louis, Missouri, under request for quotations (RFQ) No. 36C7861Q0009, issued by the Department of Veterans Affairs (VA), National Cemetery Administration, for grounds maintenance services. DeWitt challenges the evaluation of quotations and the selection decision.

We deny the protest.

BACKGROUND

On August 11, 2018, the VA posted the RFQ on the Federal Business Opportunities (FedBizOpps) website as a combined synopsis/solicitation under the commercial item acquisition and simplified acquisition procedures of Federal Acquisition Regulation (FAR) parts 12 and 13. The solicitation, which was set-aside for SDVOSB concerns, sought quotations to provide grounds maintenance at Camp Butler National Cemetery in Springfield, Illinois, as specified in the solicitation's performance work statement. The

solicitation provided for the issuance of a fixed-price requirements order to the vendor submitting the quotation that provided the best benefit to the government, price and other factors considered. RFQ at 10. The solicitation further established that the agency would perform a comparative evaluation in accordance with FAR § 13.106-2(b)(3)¹ “to determine which response represents the ‘best’ as a whole.” Id. The solicitation identified a period of performance of one year, with four 1-year options. Id. at 2.

As relevant here and in pertinent part, the RFQ described the evaluation process as follows:

Quotes will be evaluated by performing a direct comparison of one offer with another in a uniform manner to determine which quote provides the government with its needs, as identified in the RFQ. The government reserves the right to consider a response that offers more than the minimum and select that response if it provides a benefit to the government. The government has the discretion to accept other than the lowest priced offeror that provides additional benefits.

RFQ at 10.

The RFQ provided for the evaluation of quotations based on the following factors: price; technical acceptability; past performance; and verification of SDVOSB status. Id. The RFQ did not rank or otherwise provide the relative importance of the evaluation factors.

Quotations were due by August 31, 2018. RFQ amend. 1 at 1. The VA received quotations from six vendors, including DeWitt and Gateway. The agency’s Cemetery Director reviewed each vendor’s technical quotation and found none provided a unique approach to perform the solicited services beyond what was set forth in the solicitation. Based on this, all six vendors were rated acceptable under the technical acceptability factor. Contracting Officer’s Statement at 4. As to past performance, one vendor received a neutral rating, and the other five vendors, including the protester and the awardee, were rated acceptable under this factor. Agency Report (AR) exh. 9, Award Decision Documentation Form at 4. As to price, DeWitt offered a total evaluated price of \$1,218,928.75 and Gateway offered a total evaluated price of \$1,211,378.80. Id.

The contracting officer adopted the findings of the Cemetery Director that there were no meaningful technical differences between the quotations and price became the determinative factor in the selection decision. Contracting Officer Statement at 4-5. The contracting officer then issued the order to Gateway on the basis that its lower-priced quotation offered the best benefit to the government. Id. On December 17, after

¹ We note that the simplified acquisition procedures of FAR part 13 do not require formal evaluation plans, the establishment of a competitive range, the conduct of discussions, or the scoring of quotations or offers. See FAR 13.106-2(b) and (b)(3).

receiving notice of the selection decision and a written debriefing, DeWitt filed its protest with our Office.

DISCUSSION

DeWitt contends that the agency abandoned the solicitation's best-value basis for award and issued the order to Gateway on a lowest-priced technically-acceptable evaluation basis.² Protest at 4-8; Comments at 2-3. The protester argues that the agency did not meaningfully consider the qualitative differences between its quotation and the awardee's quotation, as required by the RFQ. Had the agency followed the stated evaluation scheme, DeWitt alleges that its quotation would have been selected because its "technical proficiency [was] higher than Gateway's, and would have resulted in a higher technical score" that would outweigh its slightly higher price. Protest at 9. We have reviewed DeWitt's arguments and find no basis to sustain its protest.

The simplified acquisition procedures established under FAR part 13 are designed to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors. When using simplified acquisition procedures, an agency must conduct the procurement consistent with a concern for fair and equitable competition and must evaluate quotations in accordance with the terms of the solicitation. SSI Technology, Inc., B-412765.2, July 13, 2016, 2016 CPD ¶ 184 at 3; Emergency Vehicle Installations Corp., B-408682, Nov. 27, 2013, 2013 CPD ¶ 273 at 4. In reviewing a protest of an allegedly improper simplified acquisition evaluation, we examine the record to determine whether the agency met this standard and exercised its discretion reasonably. DOER Marine, B-295087, Dec. 21, 2009, 2004 CPD ¶ 252 at 3. The fact that the protester disagrees with the agency's evaluation, by itself, is not sufficient to sustain the protest. Regency Inn & Suites, B 411066.2, May 8, 2015, 2015 CPD ¶ 154 at 4. Our review of the record provides us no basis to find the agency's evaluation here was unreasonable or otherwise objectionable.

As set forth above, the RFQ established that the agency would issue the order to the vendor submitting the quotation that provided the best benefit to the government, price and other factors considered. The solicitation also indicated that the agency retained the discretion to accept other than the lowest-priced quotation if that quotation offered additional benefits to the government. See RFQ at 10. The solicitation did not specify a weight or relative priority to be given to the evaluation factors. Id. In performing its evaluation, the record indicates that the quotations submitted by DeWitt and Gateway each were rated acceptable under the non-price evaluation factors. The contracting officer concluded that DeWitt's and Gateway's quotations were essentially equal in technical merit, finding no qualitative differences in what the quotations have to offer; that is, neither quotation offered more than the minimum approach to meeting the agency's needs. As a result, the contracting officer issued the order to Gateway.

² The protester raised a third basis of protest which the protester withdrew in its comments on the agency report. Comments at 1 (Jan. 28, 2019).

While DeWitt disagrees with the contracting officer's finding that its quotation did not offer any technical advantages to the government that would warrant paying a price premium, DeWitt has not identified any material basis--other than its bald assertion--for concluding that the contracting officer's determinations were unreasonable. DeWitt's disagreement with the agency's evaluative judgments, by itself, does not demonstrate that those judgments were unreasonable. See Regency Inn & Suites, supra. Under these circumstances, we have no basis on which to sustain the protest.

The protest is denied.

Thomas H. Armstrong
General Counsel