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# Decision

**Matter of:** Alvarez LLC

**File:** B-418367.6; B-418367.7

**Date:** June 2, 2020

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## DIGEST

Protest challenging quotation's compliance with the material requirements of the solicitation is denied where the record reveals that the agency's conclusion that the awardee's quotation complied with the requirements is reasonable.

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## DECISION

Alvarez, LLC, of Tysons Corner, Virginia, protests the award of a delivery order to Colossal Contracting, LLC, of Annapolis, Maryland, under request for quotations (RFQ) No. 36C10B20Q0026, issued by the Department of Veterans Affairs (VA) to the holders of the National Aeronautics and Space Administration Solutions for Enterprise Wide Procurement (SEWP V) governmentwide acquisition contract for computer hardware, software, incidental services, and components. The protester contends that the awardee's quotation failed to comply with several material RFQ requirements.

We deny the protest.

## BACKGROUND

The RFQ, issued on October 30, 2019, to the SEWP V contract holders, sought quotations for personal computers, laptops, monitors, docking stations, and incidental services. Agency Report (AR), Contracting Officer's Statement (COS) ¶ 3. The requirement was set aside for service-disabled veteran-owned small businesses, and

contemplated award to the lowest-priced, responsive, responsible vendor whose quotation conforms to the terms of the RFQ. AR, Tab 4, RFQ at 85.

The RFQ included multiple material technical requirements, which were described in detail in section A.6, as follows:

The Contractor shall ensure that information technology products are procured and/or services are performed with products that meet and/or exceed ENERGY STAR<sup>[1]</sup>, FEMP [Federal Energy Management Program] designated, low standby power, and EPEAT<sup>[2]</sup> [Electronic Product Environmental Assessment Tool] guidelines. The Contractor shall provide/use products that earn the ENERGY STAR label and meet the ENERGY STAR specifications for energy efficiency.

Specifically, the Contractor shall:

1. Provide/use ENERGY STAR products, as specified at [www.energystar.gov/products](http://www.energystar.gov/products) (contains complete product specifications and updated lists of qualifying products).

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3. Provide/use EPEAT registered products as specified at [www.epeat.net](http://www.epeat.net). At a minimum, the Contractor shall acquire EPEAT® Bronze registered products. EPEAT registered products are required to meet the technical specifications of ENERGY STAR, but are not automatically on the ENERGY STAR qualified product lists. The Contractor shall ensure that applicable products are on both the EPEAT Registry and ENERGY STAR Qualified Product Lists. The acquisition of Silver or Gold EPEAT registered products is encouraged over Bronze EPEAT registered products.

RFQ at 55.

The solicitation also incorporated by reference Federal Acquisition Regulation (FAR) clauses 52.223-15--Energy Efficiency in Energy Consuming Products and 52.223-16--

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<sup>1</sup> Energy Star is a program managed by the U.S. Environmental Protection Agency that promotes energy efficiency, and provides information on the energy consumption of products and devices using various standardized method. See <https://www.energystar.gov/> (last visited on May 20, 2002).

<sup>2</sup> EPEAT is “the leading global ecolabel for the IT sector.” See <https://greenelectronics.council.org/epeat/epeat-overview/> (last visited on May 19, 2020). The EPEAT ecolabel is managed by the Green Electronics Council, which maintains the EPEAT Registry, listing products meeting certain environmental performance criteria related to, for example, energy use, recycling, or toxicity of products. *Id.*

Acquisition of EPEAT®-Registered Personal Computer Products. The clause at FAR 52.223-15 states, in pertinent part:

- (b) the Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR® products or FEMP-designated products) at the time of contract award, for products that are:
  - (1) Delivered;
  - (2) Acquired by the Contractor for use in performing services at a Federally-controlled Facility;
  - (3) Furnished by the Contractor for use by the Government; or
  - (4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

FAR 52.223-15.

The clause at FAR 52.223-16--Acquisition of EPEAT®-Registered Personal Computer Products, provides, in pertinent part:

- b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only personal computer products that, at the time of submission of proposals and at the time of award, were EPEAT® bronze-registered or higher.

FAR 52.223-16.

An attachment to the solicitation, Specification Compliance Matrix, prescribed the VA's minimum compliance requirements for each device to be provided under the RFQ. *Id.* at 85-86; AR, Tab 5, att. A, Specification Compliance Matrix. In this matrix, vendors were to provide the make, model, and part numbers for each proposed device, along with "the technical specifications or confirmation that the device meets the minimum requirements in the cells associated with the minimum requirements." AR, Tab 5, att. A, Specification Compliance Matrix, Instructions.

As relevant to this protest, vendors had to self-certify that their proposed monitors are EPEAT and "EPA [Environmental Protective Agency] Energy Star rated/registered," and compliant with the Trade Agreements Act (TAA). *Id.* Vendors were advised that failure to complete the matrix, or to provide sufficient detail, could result in their quotation being found nonresponsive. *Id.* Furthermore, the RFQ advised that errors or misrepresentations contained within a quotation "may render the [o]fferor's quot[ation] [u]nacceptable and thus, ineligible for award." RFQ at 87.

On November 18, 2019, the agency received 11 quotations from 9 SEWP V contract holders.<sup>3</sup> COS ¶ 11. After clarifications/exchanges with vendors and evaluating

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<sup>3</sup> Cynergy submitted three quotations.

quotations, on December 12, 2019, the agency made an award to Cynergy Professional Systems. COS ¶ 14.

On December 24, 2019, Colossal protested the award to our Office (B-418367), arguing that the award was noncompliant with the solicitation requirements because Cynergy's proposed Samsung 32" monitor was not on the EPEAT registry. On January 16, 2020, the VA notified our Office that it would take corrective action to reevaluate the quotations that formed the basis of the original award decision, and make a new award. AR, Tab 21, Contracting Officer's Determination of Corrective Action. Based on the VA's pending corrective action, we dismissed Colossal's protest as academic. *Colossal Contracting, LLC*, B-418367, Jan. 24, 2020 (unpublished decision).

As a result of corrective action, on February 12, 2020, Colossal, as the next-in-line responsive vendor, received the award valued at \$466,086,436.56. COS ¶ 18; AR, Tab 24, Source Selection Decision ¶ 19. After a debriefing, Alvarez protested to our Office.<sup>4</sup>

## DISCUSSION

The protester challenges the award to Colossal, arguing that the awardee's quotation was noncompliant with the terms of the RFQ in several respects, and that the agency improperly waived material solicitation requirements. Protest at 9. Specifically, Alvarez argues that Colossal quoted a monitor that is "not Energy Star certified" and two monitors that are not TAA compliant.<sup>5</sup> *Id.* at 10. We have considered all of the allegations raised by Alvarez and find no basis to sustain the protest. Below, we discuss Alvarez's principal contentions.

### Energy Star Certification Requirement

Alvarez argues that Colossal's quoted monitor, identified as Philips [DELETED], fails to conform to the solicitation requirements because it is not on the Energy Star qualified products list (QPL). Protest at 10. In support, Alvarez provides an excerpt from the Energy Star website, with the results of a search for the Philips [DELETED] monitor that

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<sup>4</sup> The awarded value of the delivery order at issue exceeds \$25 million. AR, Tab 24, SSD at 8. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award contracts valued over \$25 million. 10 U.S.C. § 2304c(e)(1)(B).

<sup>5</sup> Alvarez failed to address the agency's specific response to its TAA-compliance protest ground; thus we deem this ground abandoned. Accordingly, we will not consider this argument further. *IntelliDyne, LLC*, B-409107 *et al.*, Jan. 16, 2014, 2014 CPD ¶ 34 at 3 n.3. Alvarez also initially challenged Colossal's compliance with respect to its proposed tablets and docking stations but later withdrew these protest grounds. Protester's Comments at 2 n.2.

Alvarez conducted on February 17, 2020, showing that the search yielded no results. Protest, exh. 11, Energy Star Certification Search Results for Philips Monitors.

The agency responds that the Philips monitor quoted by Colossal fully conforms to the RFQ requirement to provide products that are “energy efficient” and Energy Star qualified. AR, Memorandum of Law (MOL) at 5. The VA points out that the awardee quoted energy efficient products that “were on the ENERGY STAR QPL, bear the ENERGY STAR label and are energy efficient products.” *Id.* at 6; AR, Tab 18, Colossal Att. A Response, November 18, 2019, at Monitors Tab, Row 14. Moreover, the agency notes the monitor’s energy efficiency and its qualification to be labeled as Energy Star product was recently confirmed by a representative of the EPA, which manages the Energy Star program. MOL at 6-9.

Responding to the protester’s contention that the RFQ requires that the monitor be on the Energy Star QPL, and that it was not, as of February 17, 2020, the agency explains that the monitor was on the Energy Star QPL at time of Colossal’s quotation submission on November 18, 2019. MOL at 9. The VA adds that the monitor was fully Energy Star certified on the QPL as of March 27, 2018, and remained on the list until January 28, 2020, when, due to the EPA’s change of the monitor display specifications from version 7.1 to version 8.0, products that were certified at display specification version 7.1 were no longer included on the list. MOL at 9, 11; AR, Tab 27, Energy Star Qualified Displays until January 28, 2020.

Nevertheless, the agency supports its conclusion that Colossal’s monitor complied with the RFQ requirement by pointing out that the EPA representative who manages the Energy Star program and maintains the QPL confirmed that vendors who quoted “monitors that were certified to [version]7.0 may still sell them with the ENERGY STAR label.” See AR, Tab 26, Email Exchange with Energy Star Representative at 1.

In reviewing protests challenging an agency’s evaluation of quotations, we do not reevaluate quotations, but rather we examine the record to determine whether the agency’s judgment was reasonable and in accordance with the stated evaluation criteria and applicable procurement laws and regulations. *Peregrine Integrated Mgmt., Inc.*, B-414788, B-414788.2, Sept. 11, 2017, 2017 CPD ¶ 286 at 2. Similarly, we will not disturb an agency’s determination of the acceptability of a quotation absent a showing that the determination was unreasonable, inconsistent with the terms of the solicitation, or in violation of procurement statutes or regulation. *OPTIMUS Corp.*, B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4. The adequacy of the agency’s justification is ascertained through examining whether the agency’s explanation is reasonable, that is, whether the explanation can withstand logical scrutiny. *Columbia Imaging, Inc.*, B-286772.2, B-287363, Apr. 13, 2001, 2001 CPD ¶ 78 at 2-3.

Here, the RFQ in section A.6 states that the vendor “shall” ensure to provide energy efficient products, as follows:

The Contractor shall provide/use products that earn the ENERGY STAR label and meet the ENERGY STAR specifications for energy efficiency.

RFQ at 55.

Further, the solicitation required that vendors:

1. Provide/use ENERGY STAR products, as specified at [www.energystar.gov/products](http://www.energystar.gov/products) (contains complete product specifications and updated lists of qualifying products).

*Id.* Moreover, section A.6 included the requirement that contractors ensure that “applicable products are on both the EPEAT Registry and ENERGY STAR Qualified Product Lists.” *Id.*

Based on this record, we conclude that the agency’s determination that the Philips monitor quoted by Colossal was compliant with the RFQ requirements was reasonable. As noted above, the monitor was and still is an Energy Star certified product, *i.e.*, a product that “earn[ed]” the Energy Star label and “meet[s]” the Energy Star specifications for energy efficiency. See RFP at 55; AR, Tab 26, Email Exchange with Energy Star Representative at 1.

Further, as explained by the EPA Energy Star representative contacted by the VA on February 26, 2020, the Philips monitor no longer appeared on the QPL because a new “Displays Version 8.0 went into effect” on January 28, 2020, and not because the monitor lost its energy efficient characteristics. AR, Tab 26, Email Exchange with Energy Star Representative at 2. As the Energy Star representative noted, “the change from Displays V7.0 to V8.0 wasn’t significant”; more importantly, he confirmed that “[t]hose monitors that were certified to V7.0 may still [be provided] with the ENERGY STAR label.” *Id.* at 1.

Additionally, it is important to note that the awardee’s monitors were EPEAT registered at the time of quotation submission and at time of award, which further supports that the monitors meet the energy efficiency requirements of the solicitation. AR, Tab 31, February 26, 2020 EPEAT Registry for Philips [DELETED] (listing Philips [DELETED] monitor on the EPEAT registry at Bronze-level EPEAT rating). As confirmed by the record, all EPEAT-registered products are required to meet the ENERGY STAR technical specifications for that product, in addition to meeting other environmental performance criteria. AR, Tab 35, EPEAT List of Criteria at 4.

We conclude that the agency reasonably found the Philips monitor compliant with the RFQ’s requirements for energy efficiency. Notwithstanding the changes to the QPL display specifications implemented by the EPA in the final stages of the VA’s corrective action for this procurement, the Philips monitor still is an Energy Star certified product.

In addition, on November 18, 2019, the date of quotation submission, the specifications for display version 8.0 did not exist, nor were they in effect on January 16, 2020, when the VA proposed to take corrective action by reevaluating quotations. In sum, the agency reasonably found that Colossal's quoted monitor met the energy efficiency requirements included in the solicitation.

The protest is denied.

Thomas H. Armstrong  
General Counsel