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# Decision

**Matter of:** Delmock Technologies, Inc.

**File:** B-418626.2

**Date:** June 23, 2020

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Ira E. Hoffman, Esq., and Daniel Ryan Ackerman, Esq., Butzel Long, P.C., for the protester.

Alice M. Somers, Esq., Brandon Dell'Aglio, Esq., Tal Kedem, Esq., and Virginia A. Pizza, Esq., Social Security Administration, for the agency.

April Y. Shields, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Protest challenging the exclusion of the protester's quotation from the competition is denied where the agency reasonably found that the protester was ineligible for award because its quotation was based on a Federal Supply Schedule contract that included an insufficient period of performance to cover the potential duration of the anticipated blanket purchase agreement.

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## DECISION

Delmock Technologies, Inc., of Baltimore, Maryland, protests its elimination from the competition under request for quotations (RFQ) No. 28321320Q0000011, issued by the Social Security Administration to establish multiple-award blanket purchase agreements (BPAs) for information technology support services. The protester argues that the agency improperly found it ineligible for award on the basis that its General Services Administration (GSA) Federal Supply Schedule (FSS) contract, on which it based its quotation, included an insufficient period of performance to cover the potential duration of the anticipated BPA.

We deny the protest.

## BACKGROUND

On January 16, 2020, the agency issued the RFQ as a small business set-aside under Federal Acquisition Regulation (FAR) subpart 8.4 to vendors holding GSA FSS Information Technology contracts. Agency Report (AR), exh. 1, RFQ.<sup>1</sup> The RFQ contemplated the establishment of multiple-award BPAs to acquire systems information technology support for the agency's mainframe, distributed, and telecommunications environments. *Id.* at 66. Among other things, the contractor would be required to provide expertise, technical knowledge, information technology support personnel, and other related resources necessary to support all information technology engineering and infrastructure support services. *Id.* The value of the BPA is expected to be \$330 million. Contracting Officer's Statement and Memorandum of Law (COS/MOL), May 4, 2020, at 4.

The term of the anticipated BPA would include a 1-year base period, nine 1-year option periods, and an optional 6-month extension, for a total possible performance period of 126 months. The BPA's period of performance was expected to start on June 3, 2020 and, if all available options are exercised, would extend through December 2, 2030. RFQ at 3, 7.

The RFQ required vendors to submit, among other things, the vendor's GSA FSS contract number and contract expiration date, and advised that "[q]uot[at]ions which fail to provide the below information may be determined to be unacceptable and, therefore, ineligible for award." RFQ at 55, 59. In addition, the agency advised vendors in response to questions, which were incorporated via amendment into the RFQ: "Offerors' GSA schedule must be active at the time of quot[at]ion submission. In addition, an offeror may be awarded a Schedule BPA that extends beyond the current term of their Schedule contract, so long as there are option periods in their GSA Schedule contract that, if exercised, will cover the BPA's Period of Performance. See FAR 8.405-3(d)(3)."<sup>2</sup> *Id.* at 129, 156.

On or before the February 14, 2020 closing date, Delmock submitted a quotation in which it listed its GSA FSS contract as GS-35F-0398R with a "period covered" of February 28, 2015 through February 29, 2020. AR, exh. 4, Delmock Quotation Excerpt, Feb. 14, 2020, at 3.

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<sup>1</sup> The agency amended the RFQ twice. All citations are to the consolidated solicitation provided by the agency.

<sup>2</sup> Section 8.405-3(d)(3) of the FAR provides the following: "Contractors may be awarded BPAs that extend beyond the current term of their GSA Schedule contract, so long as there are option periods in their GSA Schedule contract that, if exercised, will cover the BPA's period of performance."

On March 11, the contracting officer notified Delmock that its quotation did not contain proof that its GSA FSS contract would be valid through the BPA's anticipated period of performance, noting that "[b]ased on the information in your quote, your GSA schedule GS-35F-0398R expires on [February 29, 2020]." AR, exh. 5, Letter from Contracting Officer to Delmock, Mar. 11, 2020, at 1. The contracting officer then asked Delmock to provide documentation by March 13 showing that its GSA FSS contract would cover the BPA's anticipated period of performance, and advised that "[f]ailure to provide evidence that your GSA schedule will cover the ten-year period will result in your quotation no longer being considered for award." *Id.*

Delmock did not provide the required documentation by March 13. Instead, Delmock replied that it was "expecting" a new GSA FSS contract. See Protest at 6. On March 23, Delmock advised the contracting officer that it had received a new GSA FSS contract earlier that day that, in Delmock's words, "meets/exceeds your requirement's timeline." AR, exh. 6, Email from Delmock to Contracting Officer, Mar. 23, 2020, at 1.

On March 24, the contracting officer notified Delmock that it was "no longer being considered for award[.]" AR, exh. 7, Delmock Exclusion Letter, Mar. 24, 2020, at 1. This protest followed.

## DISCUSSION

The protester contends that the agency's decision to eliminate it from the competition was "arbitrary and unreasonable[.]" Protest at 1. In response, the agency asserts that it "complied with the terms of the solicitation, the FAR, and GAO case law when it excluded [the p]rotester from the competition[.]" COS/MOL at 9. We have considered all of the parties' arguments, including those that are in addition to or variations of those discussed below, and find no basis to sustain Delmock's protest.

Our Office has recognized that an FSS BPA is not established with the contractor directly, but rather is established under the contractor's FSS contract, such that the FSS BPA orders "ultimately are to be placed against the successful vendor's FSS contract." *GBK P'ship, LLC-Constant Assocs., Inc.*, B-417039, Jan. 24, 2019, 2019 CPD ¶ 30 at 5, citing *Panacea Consulting, Inc.*, B-299307.4, B-299308.4, July 27, 2007, 2007 CPD ¶ 141 at 1-2 n.1. Thus, as we have further recognized, when an agency intends to place an order under an FSS BPA, the vendor must have a valid FSS contract in place because that contract is the means by which the agency satisfies the competition requirements of the Competition in Contracting Act in connection with any orders issued under the BPA. *Canon USA, Inc.*, B-311254.2, June 10, 2008, 2008 CPD ¶ 113 at 3-4. In this regard, FAR 8.405-3(d)(3) requires a vendor's FSS contract to have sufficient duration, including potential options, to coincide with the entire potential period of performance for the resulting BPA. See *GBK P'ship, LLC-Constant Assocs., Inc.*, *supra*, at 4.

As noted above, the RFQ required vendors to submit their GSA FSS contract number and contract expiration date, and advised that the vendor's FSS contract "must be

active at the time of quot[ation] submission” and that, consistent with FAR 8.405-3(d)(3), a vendor “may be awarded a Schedule BPA that extends beyond the current term of their Schedule contract, so long as there are option periods in their GSA Schedule contract that, if exercised, will cover the BPA’s Period of Performance.” RFQ at 59, 129, 156. The RFQ also advised that the anticipated BPA’s period of performance was expected to start on June 3, 2020 and, if all available options are exercised, would extend through December 2, 2030. *Id.* at 3, 7. The record shows that Delmock submitted its quotation under its GSA FSS contract, GS-35F-0398R, which would be valid only through February 29, 2020. AR, exh. 4, Delmock Quotation Excerpt, Feb. 14, 2020, at 3.

Because Delmock’s quotation was based on a GSA FSS contract that did not fulfill the BPA’s anticipated period of performance, it was ineligible for award. See FAR 8.405-3(d)(3); see also *NCS Techs., Inc.*, B-417956, B-417956.2, Dec. 13, 2019, 2019 CPD ¶ 427 at 7-8 (finding that a vendor was ineligible for award where its quotation was based on an FSS contract that included an insufficient period of performance to cover the potential duration of the BPA); *GBK P’ship, LLC-Constant Assocs., Inc.*, *supra*, at 4 (same). On this record, we find that the agency’s decision to eliminate Delmock from the competition was reasonable and consistent with applicable procurement law and regulation.

Despite all of these facts, Delmock insists that the agency should have found it eligible for award for various reasons, none of which we find persuasive. For example, Delmock focuses on the fact that it advised the agency on March 23--after the February 14 due date for quotations, and after the March 13 deadline for Delmock to provide additional information--that it had received a new GSA FSS contract that would meet the required period of performance. In this regard, Delmock complains that its new GSA FSS contract was “delayed for reasons that were not the fault of Delmock and were beyond Delmock’s control[,]” and that, “[f]or [the agency] to reject Delmock’s quot[ation] because its GSA [FSS] contract did not come through until after the arbitrary deadline set by the [a]gency is both unfair and unreasonable[.]” Protest at 8.

Here, the protester’s belated receipt of a new GSA FSS contract neither compels nor permits the agency to find it eligible for award. See *NCS Techs., Inc.*, *supra*, at 11 (finding that a vendor’s later receipt of a second FSS contract “does not permit the agency to establish a BPA under a contract that the vendor did not include in its quotation and that was not the basis for the vendor’s quotation”). Moreover, to the extent Delmock’s complaint is based on its view that the agency set an “arbitrary deadline[,]” Protest at 8, we find that the protester is raising an untimely challenge to the terms of the solicitation. 4 C.F.R. § 21.2(a)(1); see, e.g., *ASRC Fed. Data Sols., LLC*, B-417655 *et al.*, Sept. 18, 2019, 2019 CPD ¶ 325 at 7. In any event, we note that our Office has generally found that events unrelated to a protested procurement--including, as the protester questions here, those affecting GSA’s administration of FSS contracts--do not establish a basis for sustaining a protest. See, e.g., *Information Innovators, Inc.*, *et al.*, B-418405 *et al.*, Apr. 14, 2020, 2020 CPD ¶ 145 at 5 (rejecting

argument about “events unrelated to this procurement,” specifically with regard to delays in GSA’s administration of FSS contracts).

The protest is denied.

Thomas H. Armstrong  
General Counsel