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## Decision

**Matter of:** The Winvale Group, LLC

**File:** B-418804

**Date:** August 6, 2020

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### DIGEST

1. Protest that the agency changed the method for submitting quotations without adequate notice is denied where the solicitation required submission through the General Services Administration's e-Buy portal, and e-Buy users were given advance notice of the changes to the portal.
  2. Agency is not required to accept a late quotation, even in the absence of a late quotation provision, where the agency began substantial evaluation activities before receiving the protester's request to submit its late quotation.
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### DECISION

The Winvale Group, LLC, of Richmond, Virginia, a small business, challenges the decision by the General Services Administration (GSA) to reject its request to submit a quotation after the closing date established by request for quotations (RFQ) No. 47HAA020Q0086, which was issued for a commercial off-the-shelf (COTS) enterprise project management information system. The protester argues that the agency improperly revised the procedures for submitting quotations without providing vendors notice of the change, and that the agency should in any event permit the protester to submit a quotation because the RFQ did not specifically prohibit late submissions.

We deny the protest.

## BACKGROUND

GSA issued the solicitation on May 1, 2020, under the Federal Supply Schedule (FSS) procedures of Federal Acquisition Regulation (FAR) subpart 8.4. Agency Report (AR), Tab 7, RFQ at 25.<sup>1</sup> The RFQ sought quotations to provide an enterprise project management system for the agency's Public Buildings Service. *Id.* at 30. The RFQ explained that the contractor will "replace the existing project management solution with a new cloud-based, COTS, enterprise-wide solution that includes hosting, licensing, configuration, data architecture, integration, and support services." *Id.* The competition was limited to firms that hold contracts under FSS Schedule No. 70. *Id.*

The RFQ was issued through GSA's e-Buy web portal and required vendors to submit quotations through that portal before 10:00 a.m. on June 1. *Id.* at 49; *id.*, Cover Letter at 25. The e-Buy portal is a "processing portal that allows buyers in the federal government to publish RFQs and [requests for information]." AR, Tab 2, Statement of GSA e-Buy Product Owner, at 5. The e-Buy portal allows vendors to search for contracting opportunities and to "prepare and submit a quote in response to a[n] RFQ." *Id.*; *see also* FAR 8.402(d). As discussed below, GSA placed a notice on the e-Buy portal and sent emails to registered e-Buy users advising that GSA would be updating the portal on May 31. AR, Tab 2, Statement of GSA e-Buy Product Owner, at 5.

GSA received 13 quotations in response to this solicitation through the e-Buy portal prior to closing. Contracting Officer's Statement (COS) at 1. On June 2, Winvale contacted the contracting officer via email and advised that its "response to the above referenced RFQ was submitted via eBuy on 5/31/2020 but unfortunately it was left in DRAFT mode." Protest, exh. 4, Email from Winvale to GSA, June 2, 2020 (5:19pm), at 1. Winvale explained that "[t]he person who submitted the documents was confused by the new eBuy portal and inadvertently did not complete the process so the documents did not reach you in time." *Id.* Winvale stated that it "understand[s] that if the due date and time are missed that the response cannot be considered," but requested an exception to the rule to allow consideration of the quotation. *Id.*

The contracting officer denied the request on June 4, stating as follows: "Unfortunately, we are not permitted to accept late responses." Protest, exh. 5, Email from GSA to Winvale, June 4, 2020, at 1. This protest followed.

## DISCUSSION

Winvale raises two primary arguments: (1) the agency improperly modified the procedures for submitting quotations prior to the RFQ's closing date without providing adequate notice to vendors; and (2) the agency was required to consider the protester's quotation because the RFQ did not contain an express provision prohibiting the

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<sup>1</sup> Citations to the agency report are to the pages in the single PDF document provided by the agency.

submission of quotations after the closing date. Protest at 7-9; Protester's Comments at 2, 6. For the reasons discussed below, we find no basis to sustain the protest.<sup>2</sup>

### Modification of e-Buy Portal

Winvale argues that GSA failed to provide adequate notice of the May 31 change to the e-Buy portal's process for submission of quotations, which was "less than 24 hours" before the RFQ's closing date of June 1 at 10:00 a.m. Protest at 2. The protester states that prior to the May 31 changes, the e-Buy portal required what the protester characterizes as a "one-click" submission process wherein vendors could upload documents and information, and then click a button labeled "Submit Quote" to make the final submission of their quotations. *Id.* at 5. The protester contends that the revisions to the e-Buy portal changed the process for submission from this "one-click" submission process to what it characterizes as a "two-click" submission process. *Id.* Under this process, a vendor must upload the documents and information for its quotation, and then click on a button labeled "Review/Submit," which then advances the user to a second screen. *Id.* at 6. On this second screen, the vendor is required to click a button labeled "Submit Quote" to complete the process. *Id.*

Winvale argues that the modification of the e-Buy portal from a one-click to a two-click submission was "a last-minute, arbitrary change to the process for submitting quotations" that was made "without informing offerors." Protester's Comments at 2. The protester contends that the agency's actions are inconsistent with its obligation to advise all vendors of the process by which proposals or quotations are to be submitted, and to advise if any changes to that process are made. Protest at 7. In support of its argument, the protester cites a number of decisions by our Office sustaining protests where an agency issued an invitation for bids and then changed the location for submission of bids without adequately advising bidders of the change, or amending the solicitation to reflect the change; the protester also cites decisions where the agency failed to follow established procedures for the receipt of bids. *Id.* (citing *LeChase Constr. Corp.*, B-183609, July 1, 1975, 75-2 CPD ¶ 5; *H.A. Kaufman Co.*, B-186941, Mar. 4, 1977, 77-1 CPD ¶ 162; *Dale Woods*, B-209459, Apr. 13, 1983, 83-1 CPD ¶ 396; *Sun Int'l*, B-208146, Jan. 24, 1983, 83-1 CPD ¶ 78; *Select, Inc.*, B-245820, Jan. 3, 1992, 92-1 CPD ¶ 22).

As GSA notes, however, all vendors that are registered users of the e-Buy portal were provided notice that the portal would be modified on May 31. AR, Tab 2, Statement of GSA e-Buy Product Owner, at 5. First, GSA placed a notice on the e-Buy portal on May 19, advising as follows: "EBUY SELLER CHANGES COMING 5/31. We are making improvements to eBuy Seller to enhance your federal acquisition experience. Click here to learn more." AR, Tab 3, Screen Shots of e-Buy Portal Notices, at 8. The announcement contained a link to a "Contractor Job Aid" document, which provided

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<sup>2</sup> The protester also raises other collateral arguments. Although we do not address every argument, we have reviewed them all and find no basis to sustain the protest.

details on the changes to the e-Buy portal, and specifically explained the process for submitting quotations. AR, Tab 2, Statement of GSA e-Buy Product Owner, at 6; Protest, Exh. 2, Contractor Job Aid.<sup>3</sup> Significantly, the document advised that changes would be implemented on May 31 that require vendors to follow what the protester describes as the “two-click” process:

#### Review/Submit

When you have completed entering/attaching the appropriate information for your quote, click on the “Review/Submit” button. Your quote will automatically get saved to draft and you will be on the Review page. Please ensure that all of your information is correct. If edits or additional information is needed, click the “Back” button and make the necessary changes. When satisfied with your quote, click the “Submit Quote” button.

Protest, Exh. 2, Contractor Job Aid at 38.

In addition to the notice on the e-Buy website, GSA sent emails to all registered e-Buy users, including Winvale, on May 27 and May 28. AR, Tab 2, Statement of GSA e-Buy Product Owner, at 5; Tab 4, Email Notices, at 11-12 (showing that GSA sent individuals at Winvale two notices about the changes to e-Buy). These emails advised e-Buy users that changes would be made to the e-Buy portal on May 31, including a “refreshed eBuy Contractor website,” that would consist of changes to the navigation and layout of the website. AR, Tab 2, Statement of GSA e-Buy Product Owner, at 5; Tab 3, Email to e-Buy Vendors, at 11.

Winvale does not dispute that the e-Buy website posted a notice on May 19 advising of the upcoming change, nor does the protester dispute receiving the email notice of the change. Instead, the protester argues that these notices were insufficient and that the agency was obligated to more specifically advise vendors of the new two-click submission process. Protester’s Comments at 5 (arguing that GSA’s “notices included only high-level information about the aesthetic changes to the eBuy portal--falling far short of notifying eBuy users that the May 31, 2020 system changes would significantly alter the quote submission process.”).

We first conclude that GSA reasonably and adequately advised vendors of the anticipated change to the e-Buy portal through the notice on the e-Buy website and via emails. Also, we find that the Contractor Job Aid document provided with the website notice detailed the very changes to the submission process that are the subject of the protester’s arguments. We therefore find no merit to the protester’s argument that GSA

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<sup>3</sup> GSA states that the version of this document uploaded on May 19 is the same version available on the e-Buy website as of July 27. GSA Response to GAO Questions, July 27, 2020, attach. B, Job Aid File Records, at 1; see e-Buy CONTRACTOR JOB AID at 11 (available at [https://www.ebuy.gsa.gov/ebuy/assets/content/eBuy-Contractor\\_jobaid.pdf](https://www.ebuy.gsa.gov/ebuy/assets/content/eBuy-Contractor_jobaid.pdf) (last visited August 5, 2020)).

was required to issue a separate notice with the RFQ that specifically identified the changes to the quotation submission process.

We also find no basis in the record to conclude that GSA's changes to the e-Buy portal are analogous to the undisclosed changes to the bid submission procedures addressed in the decisions cited by Winvale. In *LeChase Constr. Corp.*, for example, we sustained a protest where an agency made a change to the room within a building for submission of bids, without adequate notice to bidders. *LeChase Constr. Corp.*, *supra*, at 2-3.

Here, in contrast, the RFQ required submission of quotations through the e-Buy portal, and nothing in the changes made by GSA on May 31 altered this requirement. Instead, the e-Buy portal was changed to require vendors to upload their quotations, click a "Review/Submit" button, and then click a second "Submit Quote" button to finalize the process. E-Buy CONTRACTOR JOB AID at 11 (available at [https://www.ebuy.gsa.gov/ebuy/assets/content/eBuy-Contractor\\_jobaid.pdf](https://www.ebuy.gsa.gov/ebuy/assets/content/eBuy-Contractor_jobaid.pdf) (last visited July 28, 2020)). As the protester acknowledges, the failure to click on the "Submit Quote" button causes the vendor's quotation to be displayed under the "Quote Status" heading as a "Draft." See Protest at 6.

We do not think that the new requirement to click a "Submit Quote" button to finalize the submission process, or a notice that a quotation that has not been submitted is in "Draft" status, is analogous to an unannounced change to the physical location for submission of bids. On this record, we find no merit to the protester's arguments and deny the protest.

#### Acceptance of Late Quotation

Next, Winvale argues that GSA was required to accept its quotation because the RFQ did not specifically prohibit the consideration of late quotations. Protest at 9. We find no merit to this argument.

An RFQ, unlike a request for proposals or invitation for bids, does not seek offers that can be accepted by the government to form a contract. *PricewaterhouseCoopers Public Sector, LLP*, B-415504, B-415504.2, Jan. 18, 2018, 2018 CPD ¶ 35 at 5. Rather, the government's order issued in response to a quotation represents the offer that the vendor may accept through performance or by a formal acceptance document. *DataVault Corp.*, B-248664, Sept. 10, 1992, 92-2 CPD ¶ 166 at 2. Because of the unique legal status of a quotation, our Office has explained that language in an RFQ requesting quotations by a certain date cannot be construed as establishing a firm closing date for receipt of quotations, absent a late quotation provision expressly providing that quotations must be received by that date to be considered. *Armed Forces Merchandise Outlet, Inc.*, B-294281, Oct. 12, 2004, 2004 CPD ¶ 218 at 3; *Instruments & Controls Serv. Co.*, B-222122, June 30, 1986, 86-2 CPD ¶ 16 at 3. Agencies should thus consider any quotations received prior to source selection if no substantial activity has transpired in evaluating quotations and other vendors would not be prejudiced. *Id.*

Here, GSA does not contend that the RFQ included a specific provision prohibiting consideration of quotations submitted after the closing date. Instead, the agency notes that the RFQ required quotations to be submitted via e-Buy and established a closing date for submission of quotations. Memorandum of Law (MOL) at 6-7 (*citing* RFQ, Cover Letter at 25; RFQ at 49). The agency explains that the e-Buy portal will not accept a submission after the closing date. AR, Tab 2, Statement of e-Buy Product Owner, at 6. For this reason, the agency contends that “under no circumstances could it have been understood that submissions would be accepted after the RFQ Close Date indicated.” MOL at 7. The protester argues, in effect, that in the absence of a specific prohibition in the solicitation on considering late quotations, an agency is required to accept a quotation where a vendor uploads a quotation to the e-Buy portal, saves it as a “draft,” and then requests that the agency consider the draft after the closing time.

The record shows that GSA began evaluating the 13 timely-received quotations prior to the protester’s request that its quotation be considered. The contracting officer explains that prior to the protester’s request, she took the following actions:

Immediately upon closing, I created an abstract for the 13 quotes received and conducted a preliminary review of each to determine responsiveness to the solicitation requirements. Two (2) quotes were deemed unresponsive as they did not meet the minimum [statement of objectives] requirements. The remaining eleven (11) quotes were considered responsive and thus included in the technical evaluation. At 1PM, June 1, 2020, the Contracting Officer conducted the kickoff meeting with the Technical Evaluation Team (TET). During the kickoff meeting, the Contracting Officer discussed the team’s roles and responsibilities, provided a copy of the abstract list and granted access to the eleven responsive quotes to commence evaluations. The technical evaluations lasted from Monday, June 1, 2020 through Friday, June 12, 2020.

COS at 1-2.

On this record, we find that the agency was not required to consider the protester’s quotation based on its June 2 request, because the agency had already commenced substantial evaluation activities for the timely-received quotations. *See Team Housing Solutions*, B-414105, Feb. 10, 2017, 2017 CPD ¶ 55 at 5. The protester disputes the agency’s assertions that its actions, which included a review of quotations for responsiveness, the rejection of two quotations, and a kickoff meeting with evaluations, constitute substantial evaluation activity. *See* Protester’s Comments at 8-9. Aside from its disagreement with the agency’s characterization of the significance of these

activities, the protester provides no basis for us to conclude that the evaluation activities were not substantial. We therefore find no basis to sustain the protest.<sup>4</sup>

The protest is denied.

Thomas H. Armstrong  
General Counsel

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<sup>4</sup> We note for the record that the protester's email to the contracting officer on June 2 did not provide a copy of the quotation; rather, the protester requested that the agency agree to consider the protester's quotation that was left in draft status on the e-Buy portal. See Protest, exh. 4, Email from Winvale to Agency, June 2, 2020 (5:19pm). Even if the quotation was accessible to the agency at the time of the protester's June 2 request, we find no basis to sustain the protest because the agency had already commenced substantial evaluation activity.