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Decision

Matter of: Global-PPE, Inc.

File: B-419536

Date: March 10, 2021

William K. Walker, Esq., Walker Reausaw, for the protester.
Monica Barron, Esq., William D. Robinson, Esq., Oleta Vassilopoulos, Esq., Thomas Sutton, Esq., Daniel K. George, Esq, Department of Justice, for the agency.
Emily R. O'Hara, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's evaluation of the protester's offer is denied where the record shows that the agency reasonably found the protester's offer failed to meet the requirements of the solicitation.

DECISION

Global-PPE, Inc., of Leesburg, Virginia, protests the award of a contract to Phoenix Contracting LLC, of Ruskin, Florida, under Request for Quotations (RFQ) No. 15BFA021QWNP10709, issued by the Department of Justice, Bureau of Prisons (BOP) for nitrile exam gloves. The protester contends that BOP improperly evaluated the firm's technical compliance and delivery schedule, and ultimately made an improper best-value determination.

We deny the protest.

BACKGROUND

The RFQ, issued on December 1, 2020, contemplated a single or multiple award of fixed-price contracts for the purchase of 60 million nitrile, non-sterile, non-powdered, 4-millimeter minimum thickness exam gloves, to be delivered to four BOP facilities. Req. for Dismissal, Encl. 1, RFQ at 2-3.¹ Award was to be made to the responsible

¹ The agency provided one Adobe PDF file containing all relevant documents as enclosures to its request for dismissal. For clarity, we refer to the individual enclosures

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offeror whose offer conformed to the requirements and was determined to provide the best value to the government.² *Id.* at 5. Relevant here, the solicitation specifically stated that gloves were required to be “**readily available** (available for immediate shipping).” *Id.* at 4.

The agency received more than 90 offers, 50 of which were found to be technically acceptable. Req. for Dismissal at 2. Global’s offer was found to be technically unacceptable for failing to meet the solicitation’s requirement that the gloves be readily available. *Id.* at 1-2. The agency made award to Phoenix Contracting on January 11, 2021. *Id.* at 2. Global filed this protest with our office on January 19.

DISCUSSION

Global challenges the agency’s source selection decision on several grounds. The protester argues that the agency should have found its offer acceptable because its gloves were readily available, met the thickness requirement, and were offered with a reasonable delivery schedule. Protest at 5-6. As such, Global alleges that BOP made an improper best-value determination. *Id.* at 6.

Specifically, the protester contends that it was able to meet the requirement of delivering 60 million gloves and that its offer stated that it “could provide up to 85,000,000 gloves, including . . . 5,000,000 gloves on hand with additional weekly deliveries in a reasonable time frame.” *Id.* In its response to BOP’s request for dismissal, Global acknowledges that it did not have all 60 million gloves on hand, ready for immediate delivery, when it submitted its offer. Resp. to Req. for Dismissal at 2 (“It is true that Global did not have all 60,000,000 gloves on hand when it submitted its proposal.”). The protester contends, however, that in reading the RFQ’s requirement that “[g]loves . . . be available for immediate delivery from a domestic location that has already cleared U.S. Customs,” the reasonable meaning of the word “gloves” is “gloves on hand,” rather than the total number of gloves required by the solicitation. *Id.*; see RFQ at 4. In other words, the protester contends that only the gloves available “on hand” had to meet the requirement of immediate delivery from a domestic location that had already cleared U.S. Customs.

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by name (e.g., RFQ) and identify the page numbers by the separate numbering stamped on the individual enclosures within the PDF document.

² Although issued as an RFQ for the acquisition of commercial items under Federal Acquisition Regulation (FAR) part 12 and the simplified acquisition procedures of FAR part 13, the solicitation refers to firms as both “vendors” and “offerors,” and the responses submitted as an “offer” and “quotation.” For the sake of consistency with the record, and because the result of the competition is an award of a contract, we refer to firms that competed here as offerors who submitted an offer for the award of a contract.

The agency argues that the RFQ required 60 million gloves to be “available for immediate delivery from a domestic location that has already cleared U.S. Customs.” Req. for Dismissal at 1, 3. BOP explains that the protester’s offer only identified the availability of “5 Million gloves . . . for immediate shipment.” *Id.* at 3. Because the protester’s offer did not meet the solicitation requirement, the agency contends that it reasonably found the offer technically unacceptable. *Id.* We agree.

In reviewing a protest challenging an agency’s technical evaluation, our Office will not reevaluate offers; rather, we will examine the record to determine whether the agency’s evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement statutes and regulations. *Encentric, Inc.*, B-412368.3, Apr. 19, 2016, 2016 CPD ¶ 121 at 5. A protester’s disagreement with the agency’s judgement, without more, does not establish that an evaluation is unreasonable. *Metropolitan Interpreters & Translators, Inc.*, B-415080.7, B-415080.8, May 14, 2019, 2019 CPD ¶ 181 at 6. When a dispute exists as to a solicitation’s actual requirements, we begin by examining the plain language of the solicitation. *Bluehorse Corp.*, B-414809, Aug. 18, 2017, 2017 CPD ¶ 262 at 5. If the solicitation language is unambiguous, our inquiry ceases. *Id.* We resolve questions of solicitation interpretation by reading the solicitation as a whole and in a manner that gives effect to all provisions; to be reasonable, and therefore valid, an interpretation must be consistent with such a reading. *Kardex Remstar, LLC*, B-418157, Jan. 16, 2020, 2020 CPD ¶ 56 at 6.

Here, we find no basis to conclude that Global’s interpretation of the word “gloves” is reasonable when reading the solicitation as a whole and in a manner that gives effect to all provisions. The RFQ stated: “This solicitation is expected to result in the award of a single or multiple firm-fixed price contracts for Nitrile Exam Gloves . . . available for immediate delivery.” RFQ at 5. The RFQ further explained that “[a]ward will be made,” considering the following evaluation factors: technical compliance, price, past performance, and delivery terms. *Id.* For the technical compliance factor, offerors were instructed to submit offers that conformed to the requirements listed in section “(v)” of the RFQ. *Id.* Section (v) of the RFQ identified, by separate contract line item numbers (CLINs), the quantity and sizes of nitrile gloves to be delivered to each specified BOP facility location. *Id.* at 2-3. In addition, this section notified offerors that BOP was “seeking quotes for the provision of **readily available** (available for immediate shipping) nitrile exam gloves for delivery to various BOP facilities.” *Id.* at 4. Further, section (v) required an offeror to submit a completed questionnaire along with its offer. *Id.* (“All offerors must provide their response including this questionnaire.”). Part of the questionnaire stated: “Gloves must be available for immediate delivery from a domestic location that has already cleared U.S. Customs. Provide the current location of gloves.” *Id.*

In the technical compliance section of its offer, Global stated that “Global-PPE is offering . . . gloves manufactured by [DELETED] of Shanghai, China.” Req. for Dismissal, Encl. 2, Global Offer at 12. The protester indicated that it had “5 Million gloves in [its] warehouse in Los Angeles, CA for immediate shipment” and had “committed shipments coming **weekly** from the manufacturer.” *Id.* at 16. Further, as

required by the solicitation, Global's offer included answers to the questionnaire provided with the RFQ. In response to the questionnaire item, "Please indicate the total number of gloves meeting the requirement that your company is able to provide," the protester's answer was simply "5,000,000." *Id.* at 19.

The RFQ plainly stated that offerors were required to have all 60 million qualifying gloves available for immediate delivery from a domestic location already cleared by U.S. Customs, to be eligible for award. Reading the solicitation as a whole, the reasonable interpretation of the word "gloves" is the total quantity of gloves required by the RFQ. All "gloves" needed to meet the technical requirement at issue--availability for immediate delivery to the specified BOP facilities. Nothing in the solicitation indicated that the agency required only a portion of the gloves to be available for immediate delivery. Further, the language in the RFQ clearly stated that gloves must be available from a domestic location that had already cleared U.S. Customs. *Id.* at 4. Finally, Global itself responded with "5,000,000" to the question of how many gloves the company was able to provide that met the solicitation requirements. Global Offer at 19.

The protester's offer failed to clearly state that it could meet the requirement for immediate delivery of up to 60 million gloves from a domestic location, where all gloves had been cleared by Customs. As such, we find nothing unreasonable with the agency's assessment that Global's offer failed to meet the requirements of the solicitation and was, therefore, technically unacceptable. Accordingly, this allegation is denied.

Remaining Allegations

With respect to the protester's remaining challenges to the agency's evaluation of Global's offer and the source selection decision, the protester is not an interested party to raise these bases of protest. Under the bid protest provisions of the Competition in Contracting Act, 31 U.S.C. §§ 3551-3557A, only an "interested party" may protest a federal procurement. That is, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. Bid Protest Regulations, 4 C.F.R. § 21.0(a)(1). In this regard, even if we were to conclude that the agency's evaluation or ultimate source selection decision was in error, the protester would not be in line for award because, for the reasons discussed above, BOP reasonably determined that Global's offer was technically unacceptable. *Dee Monbo, CPA*, B-412820, May 23, 2016, 2016 CPD ¶ 140 at 4 ("Since we find that the agency reasonably determined that [the protester's] proposal was technically unacceptable, it follows that the protester was properly found ineligible for award."). Consequently, the protester is not an interested party to raise

any other challenges. *Coley & Assocs., Inc.*, B-404034 et al., Dec. 7, 2010, 2011 CPD ¶ 6 at 7.

The protest is denied.

Thomas H. Armstrong
General Counsel