

Decision

Matter of: GE Forestry, Inc.

File: B-419853.2

Date: August 19, 2021

Esteban Gonzalez, GE Forestry, Inc., for the protester.
Adam Humphries, Esq., Azine Farzami, Esq., and Elin M. Dugan, Esq., Department of Agriculture, for the agency.
Christine Milne, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that the agency improperly evaluated protester's quotation as technically unacceptable and ineligible for award is denied where the record shows that the quotation was reasonably evaluated in accordance with the terms of the solicitation.

DECISION

GE Forestry, Inc., of Central Point, Oregon, a small business, protests the establishment of blanket purchase agreements (BPA) with multiple other firms under request for quotations (RFQ) No. 1202SC21Q0001, issued by the Department of Agriculture, Forest Service, for wildland firefighter services. GE contends that its quotation was misevaluated as "no-go" under the RFQ's quote acceptability factor.

We deny the protest.

BACKGROUND

On January 27, 2021, the Forest Service issued the RFQ to procure Type 2 wildland firefighter crews for 34 host unit coordinate centers (HUCC) throughout the United States.¹ Agency Report (AR) Tab 7, Conformed RFQ at 1, 4-6.² The RFQ

¹ Forest Service handcrews, typically comprised of 20 men and women, serve as the infantry of wildland firefighters. See Handcrews, <https://www.fs.usda.gov/science-technology/fire/people/handcrews> (last visited, July 7, 2021). There are five types of handcrews: Type 1 Interagency Hotshot Crews; Type 1; Type 2--Initial Attack; Type 2; and Type 3. *Id.*

² References to the Conformed RFQ use the Adobe PDF page numbers.

contemplated the award of multiple fixed-price BPAs to be performed over 5-year agreement periods. *Id.* at 5, 27-28. The RFQ stated that the Forest Service would award enough BPAs to meet firefighting needs. *Id.* at 111.

Award would be made on a best-value tradeoff basis considering two factors, quote acceptability and price. *Id.* at 110. The quote acceptability factor would be evaluated on a pass or fail basis (*i.e.*, “go” or “no-go”) considering three subfactors: assent to terms of the solicitation, key personnel, and past performance. *Id.* Quoted prices would be evaluated to determine whether they were fair and reasonable. *Id.* at 111.

Seventy-five vendors, including GE, submitted quotations prior to the February 24 close of the solicitation period. AR, Tab 13, Rationale for Establishment Memorandum (REM) at 2. GE submitted a quotation for seven contract line item numbers (CLINs), utilizing 12 handcrews. Memorandum of Law (MOL) at 1, 8. For each handcrew, the firm proposed an individual to serve as the crew boss (the key personnel). AR, Tab 8, GE Forestry Technical Quotation. GE’s quotation was evaluated as no go under the assent to terms of the solicitation subfactor because it failed to identify its key personnel by specific handcrew and failed to provide a technical portion of its quotation to determine acceptability. AR, Tab 13, REM at 3. The firm’s quotation was evaluated as no go under the key personnel subfactor because multiple key personnel (all but one) lacked sufficient documentation to show they were qualified in accordance with the solicitation’s terms. *Id.* at 5.

The RFQ provided that BPAs would be established only with those firms that received an overall rating of go. RFQ at 111. As a result, the agency decided not to establish a BPA with the protester. Ultimately, the Forest Service established BPAs with 52 other vendors. AR, Tab 13, REM at 8. The agency notified GE of the results of its evaluation on May 12, providing detailed information as to why its quotation was rated no go. After GE learned that its quotation was unsuccessful, it filed this protest with our Office.³

DISCUSSION

GE makes various challenges to the agency’s evaluation of its technical quotation and award decisions.⁴ We have reviewed all of GE’s arguments, and conclude that none

³ During the pendency of this protest, the Forest Service notified our Office of its intent to override the automatic stay of performance authorized pursuant to the procedures set forth in 31 U.S.C. § 3553. Notice of Override at 1.

⁴ In its protest, GE argued that the agency failed to conduct a price realism analysis. Protest at 4. The agency responded that the RFQ did not permit a price realism analysis, and the firm did not respond to the agency’s arguments in its comments. Where a protester fails to provide a substantive response to the agency’s position, our Office will dismiss the referenced allegations as abandoned. *See Yang Enterprises, Inc.*, B-415923, Mar. 12, 2018, 2018 CPD ¶ 109 at 2. Moreover, in deciding another protest under this RFQ, we agreed with Agriculture that this RFQ did not require a price

provide us with a basis to sustain the protest. We note at the outset that, in reviewing protests challenging an agency's evaluation of quotations, our Office does not reevaluate quotations or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. *LED Lighting Sols., LLC*, B-416127, May 9, 2018, 2018 CPD ¶ 172 at 3.

Key Personnel

As amended, the RFQ designated the single crew boss for each handcrew as the only key person. Conformed RFQ at 27. Quotations were to furnish a list of key personnel and their qualifications, training, and experience, using a resume template attached to the solicitation (exhibit D.9). *Id.* at 105. Documentation of each key person's qualifications was required to include sufficient documentation to verify that they met the solicitation's requirements. *Id.* The agency would evaluate each vendor's ability to furnish the required minimum qualified key personnel; quotations not doing so would be rated as no go for the subfactor. *Id.* at 110.

As noted above, GE's quotation was rated no go here because numerous proposed key personnel lacked sufficient documentation to show they were qualified. AR, Tab 13, REM at 5. GE was provided the detailed information describing this lack of documentation for each key personnel by name on May 12, prior to filing its protest.

In its protest, GE acknowledged that some of its key personnel did not have the requisite training, but stated that some did, providing no other information. Protest at 2. In its comments on the agency report, the firm argued for the first time that the solicitation never stated any specific standards regarding the qualifications of key personnel and that, in any case, each of its key personnel was fully qualified, citing no basis in the record for such a claim. Comments at 5-6. We dismiss these allegations as untimely.

Such arguments, raised for the first time in GE's comments, constitute the piecemeal presentation of issues because GE could have raised these arguments in its initial protest. The timeliness requirements of our Bid Protest Regulations do not contemplate the piecemeal presentation or development of protest issues. 4 C.F.R. § 21.2(a)(1); *Warrior Service Company*, B-417574, Aug. 19, 2019, 2019 CPD ¶ 298 at 5, n.7. In any case, our review of the record confirms that the RFQ included detailed standards for the qualifications of key personnel. See, e.g., Conformed RFQ at 9 and 100, and various exchanges in AR, Tab 3, Round 1 Questions and Answers (Q&A) and AR, Tab 6, Round 2 Q&A.

GE's primary argument, then, is that the agency's finding that most of the firm's key personnel did not meet the solicitation's requirements should not have precluded it from

realism analysis. *Dust Busters Plus, LLC*, B-419853.7, July 26, 2021, 2021 CPD ¶ 264 at 4.

receiving a BPA when some of the protester's key personnel did meet the requirements. GE argues that the agency created an unstated solicitation requirement by excluding its quotation "wholesale" from award on the basis that only some of its key personnel lacked sufficient documentation. Protest at 4.

The agency responds that the protester was not excluded wholesale, but rather received no-go ratings under both the key personnel and assent to the terms of the solicitation subfactors, and therefore received a no-go rating under the quote acceptability factor. MOL at 11-12. As a result of receiving a no go rating under the quote acceptability factor, GE did not receive any BPAs as the solicitation explicitly provided that BPAs would only be established with firms whose quotations had an overall go rating. Conformed RFQ at 108, 111.

With regard to the assent to terms of the solicitation subfactor, the RFQ stated that quotations must assent to all terms of the solicitation and provide all requested information; no go ratings would be assigned if exceptions were taken to any solicitation term. *Id.* at 110. GE's technical quotation was rated no go here because it did not identify its key personnel by specified handcrew as required,⁵ and did not submit its technical quotation in one file as required. AR, Tab 13, REM at 3. GE was advised of these specific bases for its no go rating on May 12, prior to filing its protest, AR, Tab 15, Email from Agency to Protester, May 12, 2021, at 1, but raised no challenge to the agency's findings in its initial protest. To the extent that any of its comments can be read to raise such challenges, they represent the untimely piecemeal presentation of protest issues because GE could have raised these arguments in its initial protest.⁶ 4 C.F.R. § 21.2(a)(1); *Warrior Service Company, supra*.

The protest is denied.

Edda Emmanuelli Perez
General Counsel

⁵ During this solicitation phase, vendors were to identify their key personnel specific to a particular handcrew. AR, Tab 6, Round 2 Q&A, Q&A 27.

⁶ GE also argues that the agency should have reopened the competition and conducted discussions with the firm. However, the RFQ clearly stated that the agency intended to evaluate quotations and establish BPAs without conducting discussions. Conformed RFQ at 108.