

## Decision

**Matter of:** Inbound, LLC

**File:** B-419853.5

**Date:** July 30, 2021

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Dillon Sanders, Inbound, LLC, for the protester.  
Adam Humphries, Esq., Azine Farzami, Esq., and Elin M. Dugan, Esq., Department of Agriculture, for the agency.  
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### DIGEST

A protest that the agency failed to conduct a price realism analysis is denied where the solicitation contained no express provision stating that the agency could reject proposals for low prices.

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### DECISION

Inbound, LLC, a service-disabled veteran-owned small business of Portland, Oregon, protests the establishment of multiple blanket purchase agreements (BPA) with other firms under request for quotations (RFQ) No. 1202SC21Q0001, issued by the Department of Agriculture, Forest Service, to provide wildland firefighter services. Inbound primarily argues that the agency failed to conduct a price realism analysis in accordance with the terms of the solicitation.

We deny the protest in part and dismiss it in part.

### 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. Agency Report (AR), Tab 7, Conformed RFQ at 1, 4-6.<sup>1</sup> The RFQ anticipated the establishment of multiple fixed-price BPAs for a period of 5 years with annual reviews. *Id.* at 27, 103; AR, Tab 13, Rationale for Establishment Memorandum (REM)

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<sup>1</sup> References to the conformed RFQ use the Adobe PDF page numbers.

at 1. The RFQ stated that the Forest Service would award enough BPAs to meet firefighting needs. Conformed RFQ at 111.

The Forest Service based the awards on a best-value tradeoff analysis considering two evaluation factors: quote acceptability and price. Conformed RFQ at 110. The agency evaluated quote acceptability on a “Go” or “No-Go” basis, considering the following subfactors: assent to the terms of the solicitation, key personnel, and past performance. *Id.* The agency evaluated price by determining whether it was fair and reasonable. *Id.* at 111.

The Forest Service received 75 quotations representing the performance of a total of 391 different firefighter crews. REM at 2. Inbound submitted a quotation for three firefighter crews. AR, Tab 8, Inbound Quotation at 8-10. The agency determined that two of Inbound’s firefighter crews were unreasonably priced since they exceeded the maximum rate the agency considered reasonable.<sup>2</sup> AR, Tab 11, Price Analysis by Company--Inbound Spreadsheet. Ultimately, the Forest Service established BPAs with 52 other vendors. REM at 8. After the agency informed Inbound that its prices were unreasonable, Inbound filed a protest with our Office on May 21.

## DISCUSSION

Inbound raises multiple allegations challenging the agency’s conduct during the acquisition.<sup>3</sup> Primarily, Inbound argues that the agency unreasonably failed to conduct a price realism analysis of the other offerors’ quotations as part of the price evaluation. Additionally, Inbound argues that the agency unreasonably made the source selection decision by limiting the number of awards.

We have reviewed all of Inbound’s challenges, and conclude that none 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, but rather, we examine the record to determine whether the evaluation was reasonable and consistent with the solicitation’s evaluation criteria and applicable procurement laws and regulations. *LED Lighting Sols., LLC*, B-416127, May 9, 2018, 2018 CPD ¶ 172 at 3.

### Price Evaluation

Inbound primarily argues that the agency unreasonably conducted the price evaluation. Protest at 5. Specifically, Inbound asserts that the solicitation required the agency to

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<sup>2</sup> While the agency initially overlooked one of Inbound’s crews that was reasonably priced, it later rectified this error by establishing one BPA with Inbound. Memorandum of Law (MOL) at 6.

<sup>3</sup> To the extent that we do not discuss a particular allegation, it is denied.

conduct a price realism analysis which the agency failed to perform. *Id.* Lastly, Inbound asserts that its prices were reasonable and in line with historical pricing. *Id.*

In response, the agency asserts that the solicitation did not require a price realism analysis. MOL at 7. The Forest Service states that the solicitation did not include any express price realism provision, nor did it include a provision that allowed the agency to reject offers for being priced too low. *Id.* at 8. Absent such provisions, the agency argues that it could not perform a price realism analysis. *Id.*

The RFQ instructed vendors to provide a price quotation consisting of itemized pricing for each location offered. Conformed RFQ at 106. When evaluating quoted prices, the RFQ included the following provision:

An analysis will be conducted on the unit price proposed to determine the demonstrated understanding of the level of effort and equipment needed to successfully perform these services. Fair and Reasonableness will be determined by comparing current competition, historical data, and the Government Estimate. Rates must be determined fair and reasonable to be considered for an agreement.

*Id.* at 111.

The agency did not conduct a price realism analysis. Instead, to evaluate price, the agency solely determined whether prices were fair and reasonable. To do so, the Forest Service calculated price estimates using established 2020 rates from the Oregon Department of Forestry. REM at 6. The agency first derived an average price by averaging the rates for all crews from the 2020 data. *Id.* The Forest Service calculated the maximum price rate by increasing the average price by one standard deviation of the population. *Id.* Additionally, the Forest Service analyzed the quoted rates, and determined that the average and maximum reasonable prices, both on a national basis and for each HUCC location, were consistent with the government estimates. *Id.*

Inbound quoted prices for three crews at three different HUCCs. Inbound Quotation at 8-10. The agency determined that the firm's quoted prices for two crews was higher than the maximum price the agency viewed as reasonable. Price Analysis by Company--Inbound Spreadsheet.

The purpose of a price realism analysis is to determine whether prices are too low, such that there may be a risk of poor performance, or to confirm a vendor's understanding of the requirements of the solicitation. Federal Acquisition Regulation (FAR) 15.404-1(d); *C.L. Price & Assocs., Inc.*, B-403476.2, Jan. 7, 2011, 2011 CPD ¶ 16 at 3. Agency acquisition officials have broad discretion in the selection of evaluation criteria that will be used in an acquisition, and we will not object to the absence or presence of a particular criterion as long as the method chosen reasonably relates to the agency's needs in choosing a contractor and is not otherwise contrary to law or regulation. *Logistics Management Int'l, Inc.*, B-412837, June 6, 2016, 2016, CPD ¶ 159 at 3. As

our Office has found, in the absence of an express price realism provision, we will only conclude that a solicitation contemplates a price realism analysis where the solicitation explicitly states that the agency will review prices to determine whether they are so low that they reflect a lack of technical understanding, and where the solicitation states that a proposal can be rejected for offering low prices. *DynCorp Int'l LLC*, B-407762.3, June 7, 2013, 2013 CPD ¶ 160 at 9; *STG, Inc.*, B-411415, B-411415.2, July 22, 2015, 2015 CPD ¶ 240 at 14. Absent a solicitation provision providing for a price realism analysis, agencies are neither required nor permitted to conduct one in awarding a fixed-price contract. *DynCorp Int'l LLC*, *supra* at 9.

On this record, we conclude that the RFQ did not contain an express price realism provision, and did not otherwise provide for a price realism analysis. Conformed RFQ at 111. The solicitation did state that an analysis would be conducted to determine whether the price reflected an adequate understanding of the solicitation requirements. *Id.* However, it lacked any language stating that the agency could reject proposals for offering low prices. *Id.* When the solicitation lacks an express price realism provision, we will only conclude that the solicitation contemplates a price realism analysis where the solicitation states that the agency can reject proposals for offering low prices. *DynCorp Int'l LLC*, *supra* at 9; *STG, Inc.*, *supra* at 14. Since the solicitation lacked such a provision, it did not require the agency to conduct a price realism analysis. *DynCorp Int'l LLC*, *supra* at 9. Because the solicitation did not require a price realism analysis, the agency was not permitted to conduct one. *STG, Inc.*, *supra* at 13-14. Accordingly, we deny Inbound's argument that the agency unreasonably failed to conduct a price realism analysis.

Lastly, to the extent that Inbound asserts that its prices were reasonable, see Protest at 5 (stating that Inbound's pricing was in line with historical pricing), we dismiss this challenge. Our Office will not consider protests that lack a detailed statement of the legal and factual grounds that provide the basis for the protest or that fail to state legally sufficient grounds of protest as required by 4 C.F.R. §§ 21.1(f), 21.5(f). Here, the agency's price reasonableness analysis was based on historical pricing and Inbound provided no evidence to show that its prices were in line with historical pricing. As such, the protester has not provided us with any factual basis to question the agency's conclusion that Inbound's prices were too high. Accordingly, we dismiss any such argument as legally insufficient. *Id.*

#### Source Selection Decision

Inbound also argues that the Forest Service unreasonably made the source selection decision by disregarding terms of the solicitation. Inbound asserts that the agency awarded the contract to the 250 cheapest quotations, and by doing so, engaged in a lowest price, technically acceptable (LPTA) source selection evaluation which contradicted the terms of the solicitation. Protest at 5. Further, the protester alleges that the agency imposed a cap of around 250 awards without specifying such in the solicitation. Protest at 5; Comments at 7. Second, the protester argues that the word "enough" in the solicitation was arbitrary, and the agency failed to provide clarification

on its meaning.<sup>4</sup> Comments at 4-5; Conformed RFQ at 111. In response, the Forest Service denies the assertion that it made awards on an LPTA basis but instead made the award consistent with the terms of the solicitation. MOL at 10.

The RFQ stated that BPAs would only be awarded to vendors whose quotations received an overall “go” rating, and whose rates were determined fair and reasonable. Conformed RFQ at 111. Furthermore, the RFQ also stated the following:

The Government will award enough BPAs anticipated to meet incident resource needs resulting from this solicitation to responsible quoters whose quotes conforming to the solicitation will be advantageous to the Government, price and other factors considered.

Conformed RFQ at 111.

The agency evaluated all quotations based on the technical and price factors specified in the terms of the solicitation. REM at 6-7. The agency then made award to all 52 quotations with 258 crews that it determined to have a “go” rating and fair and reasonable pricing. *Id.* at 8

Our Office will review protest allegations concerning a source selection decision to determine whether the agency’s judgment was reasonable and in accordance with stated evaluation criteria. See *Valiant Gov’t Servs.*, B-416488, Aug. 30, 2018, 2018 CPD ¶ 311 at 3.

Here, the record shows that the agency evaluated all quotations under the quote acceptability and price factors, and determined that it needed to establish BPAs with all of the favorably evaluated vendors in order to meet its needs. REM at 6-7. In our view, the agency reasonably made these determinations after considering past data and conducting statistical analyses. *Id.* Furthermore, this approach was consistent with the solicitation which specified that the agency would only award BPAs to quotations with fair and reasonable rates. Conformed RFQ at 111. While the protester alleges that the agency imposed a cap on the number of awards without advising vendors the solicitation would include a cap, the record does not support such an allegation; instead, all acceptable quotations received awards. Protest at 5; REM at 8. Any argument the protester makes that the agency did not make “enough” awards lacks merit because there were no acceptable quotations left for the agency to consider. Comments at 4-5;

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<sup>4</sup> We dismiss this argument as an untimely challenge to the terms of the solicitation. Specifically, Inbound challenges as unclear the word “enough”—a term of the solicitation. Our regulations require that any challenge based upon alleged improprieties in a solicitation must be filed prior to the close of the solicitation period. 4 C.F.R. § 21.2(a)(1); see *AmaTerra Env’tl. Inc.*, B-408290.2, Oct. 23, 2013, 2013 CPD ¶ 242 at 3. Despite that requirement, Inbound raised this argument in a filing dated June 5, 2021, well after the February 24 closing date. Comments at 4-5. Accordingly, we dismiss this argument as untimely raised.

REM at 8. Lastly, the record does not indicate that the agency performed an LPTA source selection. REM at 6-7. Because the award basis was reasonable and consistent with the solicitation, the agency did not unreasonably conduct the source selection.

The protest is denied in part and dismissed in part.

Thomas H. Armstrong  
General Counsel