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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Linguistic Systems, Inc.

File: B-296221

Date: June 1, 2005

Martin Roberts for the protester.

George U. Lane, Esq., General Services Administration, for the agency.

Jacqueline Maeder, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester unreasonably interpreted electronic solicitation's reference to "12 PM" as establishing midnight closing time for electronic quotation submission, where "Questions and Answers" subsequently posted to website referred to closing time as "12 Noon"; since "Questions and Answers" posting was sufficient to amend solicitation, it should have been clear to protester that 12 o'clock noon was closing time.

DECISION

Linguistic Systems, Inc. (LSI) protests the rejection of its quotation under request for quotations (RFQ) No. 4TAP15050126, issued by the General Services Administration (GSA), Federal Technology Service, for language translation services. LSI argues that GSA improperly interpreted the closing time and closed the GSA electronic procurement system too early, precluding LSI from submitting a quotation.

We deny the protest.

On February 9, 2005, GSA posted the solicitation on its official website, requesting that companies listed on the GSA Multiple Awards Schedule Program for Language Services submit quotations to provide translation services for a base year, with a 1-year option. The RFQ advised vendors that quotations were to be submitted on the GSA electronic system, Information Technology Solutions Shop (ITSS), and stated that the closing date/time for receipt of quotations was "12 PM EST on February 18, 2005." RFQ at 1. On February 15, GSA posted "Questions and Answers," an on-line response to questions received regarding the RFQ, on its official website. This posting stated that the closing time was "12 Noon EST, Friday, Feb. 18, 2005."

RFQ, Questions and Answers, at 1. LSI states that it attempted to submit its quotation on the afternoon of February 18, but received an automatic message that the RFQ was closed.

LSI asserts that it correctly interpreted the RFQ's stated closing time of 12 PM to mean midnight, and that GSA therefore improperly closed its on-line system prior to that time. This argument is without merit. Even if LSI is correct as to the proper reading of the "12 PM" reference in the RFQ as issued,¹ its position ignores the fact that the agency specified "12 Noon" as the closing time in its "Questions and Answers" posting on February 15. This posting constituted an amendment to the RFQ and, notwithstanding any prior RFQ reference to the closing time, specifically and unambiguously established that quotations were due by noon on February 18.

LSI maintains that the "Questions and Answers" did not constitute an amendment, and that its posting on GSA's website therefore had no legal effect, since it was not issued on the appropriate form as a specific amendment, and did not require an acknowledgment. Protester's Submission, May 19, 2005, at 1. However, information disseminated during the course of a procurement that is in writing, signed by the contracting officer, and provided to all vendors, meets all of the essential elements of an amendment and--even where not designated as an amendment--is sufficient to operate as such. See Stabro Labs., Inc., B-256921, Aug. 8, 1994, 94-2 CPD ¶ 66 at 4 n.4. The "Questions and Answers" posting met this standard, and therefore became a part of the solicitation. It follows that the information in the posting was sufficient to establish, and to put LSI on notice, that 12 o'clock noon was the intended closing time. Id.; see USA Info. Sys., Inc., B-291488, Dec. 2, 2002, 2002 CPD ¶ 205 at 3 (electronic amendment is effective).²

The protest is denied.

Anthony H. Gamboa
General Counsel

¹ The agency takes the position, as expressed in its March 30 letter denying an initial agency-level protest filed by LSI, that its interpretation of "12 PM" as meaning 12 o'clock noon reflected the "commonly held belief in this country that 12-noon means 12 PM and 12-midnight means 12 AM." Protest, Tab F, GSA Response to Agency-Level Protest, at 4.

² In any case, even if LSI were correct that the "Questions and Answers" did not constitute a binding amendment, the reference in that posting to "12 Noon" as the closing time, at a minimum, rendered the closing time intended by the agency ambiguous. Rather than ignore this information, LSI should have protested this ambiguity prior to 12 o'clock noon on the closing date. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (2005).