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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: CSI GmbH

File: B-400434

Date: October 22, 2008

Alexander Stoebe and Patric E. Colp, for the protester.
Maj. Daniel A. Woolverton, Department of the Army, for the agency.
Nora K. Adkins, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that vendor's products did not meet the solicitation requirements is denied where vendor's quotation provided evidence of compliance upon which the agency could reasonably rely.

DECISION

CSI GmbH protests the award of a contract to Mathy & Company Verpacksgungtechnik GmbH, under request for quotations (RFQ)[1] No. W912PE-08-T-0141, issued by the U.S. Army Contracting Command, Europe, for four types of plastic film for sealing meat.

We deny the protest.

The RFQ provided for the award of a contract to the vendor submitting the quotation determined to represent the best value to the government based upon the factors of product compliance, past performance, and price. RFQ at 11. The solicitation informed vendors that product compliance was a pass/fail factor that would be evaluated by determining "whether the products proposed meet (or exceed) the minimum requirements listed in the solicitation." Id. Offerors were required to provide with their quotations

[1] We recognize that this protest involves an RFQ; however, the agency throughout its procurement record makes reference to the award of a contract. We have retained the language used by the agency in some instances for consistency with the underlying record.

> A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary.

RFQ at 8, 11. Product samples were not required and product testing was not part of the product compliance evaluation.

The agency received quotations from three vendors. CSI's and Mathy's quotations were found to pass the product compliance factor,[2] and both had equal past performance ratings. Thus, price became the determinative factor for award, and the contracting officer decided that Mathy's lower priced quotation provided the best value to the government and made award to that firm. Agency Report (AR) at 4.

CSI protests that Mathy's film products are not compliant with the statement of work requirements.

In reviewing protests of agency evaluations, we will not reevaluate proposals; rather, we will review the record to ensure that the evaluation and source selection decision were reasonable and consistent with the terms of the solicitation and with procurement statutes and regulations. Matrix Gen., Inc., B-282192, June 10, 1999, 99-1 CPD ¶ 108 at 3.

Based on our review of the record, we find that the agency's evaluation was in accordance with the terms of the solicitation and that the award decision was reasonable. Mathy's quotation included a chart that specifically indicated that each of its film products would comply with the various statement of work requirements. AR, Tab 6, Mathy's Quotation, at 4. While CSI argues that its own independent tests of Mathy's products show that they do not meet the statement of work specifications, we find no basis on this record why the agency could not accept the evidence provided by Mathy with its quotation to determine that Mathy's offered products were acceptable. In any case, as noted by the agency, we agree that the test results provided by CSI suggesting noncompliance are not clearly documented. In addition, while CSI asserts that it tested Mathy film samples provided under a prior contract that it obtained from the agency, the agency asserts that it provided CSI with the film samples of several manufacturers with no identification of the manufacturer of the film sample provided.

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[2] Initially, CSI's product compliance was rated as "FAIL" by the technical evaluation panel because CSI did not provide the required documentation to prove that its vacuum film would meet or exceed the specifications. Nonetheless, the evaluators gave CSI a rating of "PASS" after examining a prior submission by CSI. AR at 3-4.

The protest is denied.

Gary L. Kepplinger
General Counsel