



G A O

Accountability * Integrity * Reliability

**Comptroller General
of the United States**

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

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: CMI Management, Inc.

File: B-404645

Date: March 2, 2011

Peter B. Ford, Esq., Theodore P. Watson & Associates, LLC, for the protester.
Olga Vaytsman, Esq., Christian S. White, Esq., and Alex Tang, Esq., Federal Trade Commission, for the agency.
Pedro E. Briones, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that an agency used an unstated evaluation factor in evaluating protester's quotation with regard to quality control is denied where the solicitation required that vendors describe how they would satisfy statement of work requirements, including quality standards.

DECISION

CMI Management, Inc., of Alexandria, Virginia, protests the issuance of a task order to AAA Complete Building Services, Inc., of Washington, D.C., under request for quotations (RFQ) No. FTC-10-Q-0045, issued by the Federal Trade Commission (FTC) for facilities maintenance services.

We deny the protest.

BACKGROUND

The RFQ, issued on the General Service Administration's (GSA) e-Buy website, provided for the issuance of a task order for various services for FTC's facilities in the Washington, D.C. metropolitan area.¹ Competition was limited to vendors holding Federal Supply Schedule (FSS) contracts under schedule 03FAC. Vendors

¹ GSA's e-Buy system allows ordering activities to post requirements, obtain quotations, and issue orders electronically. Federal Acquisition Regulation (FAR) § 8.402(d) (2010).

were informed that quotations would be evaluated under the following three factors, technical, past performance, and price, and that, when combined, the non-price factors were more important than price. See RFQ at 1.

The RFQ included a detailed statement of work (SOW) requiring the vendor to provide certain key personnel, maintenance and repair of specified equipment, pest control, flag services, and various other duties.² See SOW at 1-28. With regard to quality standards, the SOW stated that

The [vendor] shall be responsible for ensuring that the required services as specified in Preventative Maintenance Guides provided by the [agency's] Building Manager's office meet the quality standards outlined therein. All work performed under this [task order] shall be of the highest quality and in keeping with the best practices of the industry. Services rendered under this [task order] shall be of sufficient quality to ensure timely provision of services, optimum satisfaction of tenant agencies, and adequate protection of the Government's assets.

Id. at 9.

Vendors were instructed to submit a technical narrative describing how they would satisfy the SOW and to provide past performance information. RFQ at 1. The RFQ also advised vendors that “[o]nly the required minimum amount of information is requested. Efforts should be made to keep offers as brief as possible, concentrating on substantive information essential for proper evaluation.” Id.

FTC received 12 quotations, including CMI's and AAA's. Agency Report (AR), Statement of Facts, at 2. FTC evaluated the extent to which quotations demonstrated a clear understanding of all technical features involved in performing the tasks identified in the SOW. See id., Tab 7, Evaluation Rating Sheets, at 29. In this respect, the agency's two evaluators assigned adjectival ratings, supported by narrative comments with respect to the vendors' overall technical plans, quality control, contingency resources, key personnel, past performance references, strengths, weaknesses, and risks.³

² The RFQ also listed the various requirements as contract line items.

³ Quotations were rated as either unsatisfactory/unresponsive, poor, fair, good, or excellent. AR, Tab 7, Evaluations, at 29. A poor rating reflected a quotation that marginally satisfies the requirements; a fair rating reflected a quotation that somewhat satisfies the requirements; a good rating reflected a quotation that satisfies a majority of the requirements; and an excellent rating reflected a quotation that satisfies, and demonstrates a strong understanding of, all requirements.

CMI's \$1.594 million quotation was evaluated as follows:

	Evaluator A	Evaluator B
Overall Technical Plan	Fair/Good	Fair
Quality Control	Poor	Poor
Contingency Resources	Poor	Poor
Key Personnel	Good	Fair
References	Good	Fair
Strengths	Good	Good
Weaknesses	Fair	Good
Risks	Fair	Fair

Id. at 22-23. Among other things, the evaluators were concerned that CMI had not specifically addressed the SOW. In this regard, both evaluators noted that CMI did not specifically mention or address quality control. Id.

In contrast, AAA's \$1.589 million quotation received excellent technical and past performance ratings. The evaluators found that AAA discussed all aspects of the SOW, including the quality control requirements. Id. at 3-4.

The evaluators recommended that the task order be issued to AAA. See AR; Tab 9, Evaluation Synopsis. Following issuance of the task order to AAA and a debriefing, CMI filed this protest.

DISCUSSION

CMI raises a number of challenges to the agency's evaluation of its quotation. Primarily, the protester complains that the agency did not evaluate its quotation in accordance with the stated evaluation criteria. In this regard, CMI states that the RFQ did not request a quality control plan or inform vendors that quality control or assurance would be evaluated. Protest at 4-5. Moreover, the protester argues that the RFQ directed vendors to keep their quotations as brief as possible, but the agency assigned higher ratings to vendors who submitted detailed technical plans.⁴ See id. at 5; Comments at 7-8.

⁴ CMI also generally challenges the adequacy of the RFQ in a number of regards, including that the solicitation did not advise vendors as to what and how much past performance information to submit. See Comments at 2. These post-award challenges to the adequacy of the solicitation are untimely. Our Bid Protest Regulations require that a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals must be filed before that time. 4 C.F.R. § 21.2(a)(1) (2010). Although CMI urges that we consider its challenge to the RFQ under our rules' "significant issue exception," its
(continued...)

The agency responds that its evaluation was reasonable and consistent with the RFQ. The agency points out that the RFQ stated that quotations would be evaluated for price, past performance, and technical factors based on the vendor's technical description of how it will completely satisfy the SOW. FTC's Statement of Facts at 3, 11. In this regard, the agency argues that quality control is logically encompassed by the technical factor criterion and the SOW's quality control requirement. See id. at 14. Moreover, the agency states that the RFQ merely advised vendors to submit brief quotations, but did not otherwise relieve them of the requirement to provide a technical narrative describing how they will completely satisfy the SOW. Id. at 16-17.

Where, as here, an agency issues an RFQ to FSS contractors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. Digital Solutions, Inc., B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4; GC Servs. Ltd. P'ship, B-298102, B-298102.3, June 14, 2006, 2006 CPD ¶ 96 at 6. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. Maybank Indus., LLC, B-403327, B-403327.2, Oct. 21, 2010, 2010 CPD ¶ 249 at 5; OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4.

CMI has not shown that the agency's evaluation of its quotation was unreasonable or inconsistent with the terms of the RFQ. Although CMI complains that the RFQ did not identify quality control as an evaluation factor, we find that the agency's evaluation of the vendors' description of how they would satisfy the SOW's quality standards was reasonably encompassed by the RFQ's technical evaluation factor. That is, the solicitation's SOW provided quality standards that the vendor would be required to satisfy, see SOW at 9, and the RFQ instructed vendors to describe how they would satisfy all SOW requirements. RFQ at 1. We find that the solicitation adequately informed vendors that the agency's technical evaluation would assess the vendors' description of how they would perform the SOW requirements, including the quality standards. See Digital Solutions, Inc., supra, at 10.

Here, the record shows that, although CMI's quotation referenced some of the SOW requirements, it failed to address a number of SOW requirements, including the quality standards requirements. Accordingly, we find reasonable the agency's assessment that CMI's proposal was poor with respect to addressing the required

(...continued)

protest does not raise issues of widespread interest to the procurement community or issues that have not previously been decided by our Office. See, e.g., Schleicher Cmty. Corps. Ctr., Inc., B-270499.3 et al., Apr. 18, 1996, 96-1 CPD ¶ 192 at 7.

quality standards. In this regard, we also disagree with CMI's belief that it was not required to address all of the SOW requirements, because the solicitation asked vendors to be as brief as possible. Although the RFQ asked vendors to submit concise narratives, it also specifically instructed them to describe how they would "completely" satisfy the SOW requirements. RFQ at 1. In a competitive FSS procurement, it is the vendor's burden to submit a quotation that is adequately written and establishes the merits of the quotation. See DEI Consulting, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2.

Moreover, contrary to the protester's assertion, the record shows that FTC's evaluation and source selection decision are adequately documented. For procurements conducted under FAR subpart 8.4 and requiring a statement of work, such as this one, FAR § 8.405-2(e) designates minimum documentation requirements. See also USGC Inc., B-400184.2 et al., Dec. 24, 2008, 2009 CPD ¶ 9 at 8-9. Additionally, our Office has found that in the context of a FAR subpart 8.4 procurement, an agency's evaluation judgments must be documented in sufficient detail to show that they are reasonable. See Advanced Tech. Sys., Inc., B-298854, B-298854.2, Dec. 29, 2006, 2007 CPD ¶ 22 at 8. Here, the contemporaneous record includes evaluator rating sheets, identifying the various vendors' strengths and weaknesses; a detailed price comparison of quotations by contract line item; and the award recommendation. We find that the documentation in the record satisfies the minimum documentation requirements of FAR § 8.405 2(e) and provides sufficient detail to show that the FTC's evaluation and selection judgments are reasonable.

The protest is denied.⁵

Lynn H. Gibson
General Counsel

⁵ We dismiss the protester's complaints concerning the debriefing it was provided by FTC. See, e.g., Healthcare Tech. Solutions Int'l, B-299781, July 19, 2007, 2007 CPD ¶ 132 at 5 (GAO will not consider protest challenging agency debriefing because adequacy and conduct of debriefing is a procedural matter that does not involve the validity of contract award).