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Decision

Matter of: GTSI Corp.

File: B-292298; B-292298.2; B-292298.3

Date: August 14, 2003

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James H. Haag, Esq., Space & Naval Warfare Systems Command, for the agency.
David A. Ashen, Esq., and Jerold D. Cohen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly accepted quotation that did not unambiguously indicate compliance with mandatory computer monitor viewing area requirement, but instead could reasonably be interpreted as indicating noncompliance, and then improperly modified the blanket purchasing agreement shortly after award to “correct” ambiguity, is denied where there is no basis for concluding that the agency’s actions prejudiced protester; protester has not alleged, nor is there any basis for concluding, that it would have lowered its price sufficiently to displace awardee as the low-priced vendor.

DECISION

GTSI Corp. protests the Department of the Navy, Space & Naval Warfare Systems Command’s (SPAWAR), award of a blanket purchasing agreement (BPA) to Dell Marketing, L.P., under request for quotations (RFQ) No. N00039-02-Q-0016, for computers, laptops and peripherals. GTSI asserts that Dell’s quotation failed to comply with the specifications in the RFQ.

We deny the protest.

The RFQ contemplated award of a BPA for the procurement of commercial off-the-shelf computers, laptops and peripherals in support of shipboard command, control, communications, computers and intelligence networks. All items offered by a vendor were required to be on that vendor’s General Services Administration’s (GSA) Federal Supply Schedule (FSS) contract. The required equipment

characteristics, configurations and options were set forth in the RFQ's Section B Schedule (including attachment No. 1) and Statement of Objectives (SOO).

The RFQ provided that award would be made to the responsible contractor whose proposal represented the best value to the government. Best value was to be determined based on price and four non-price evaluation factors, including (in descending order of importance): (1) satisfaction of technical requirements; (2) past performance; (3) logistics and support plan; and (4) small and disadvantaged business (SDB) participation. While the SOO provided that "[t]he identified specifications are to be met at a minimum, but may be exceeded," SOO § 2.1, the statement of evaluation factors in Section M provided, with respect to the factor for satisfaction of technical requirements, that "[t]he government will evaluate the extent to which the equipment proposed by the contractor meets or exceeds the requirements of Section B of the RFQ and in the SOO." RFQ § M.3. The non-price evaluation factors when combined were approximately equal in importance to price.

Four vendors submitted six quotations. Dell's and GTSI's quotations were included in the competitive range. SPAWAR conducted discussions with Dell and GTSI in which the agency advised the vendors of a number of weaknesses, including instances in which their proposed equipment did not appear to meet the requirements set forth in the Section B Schedule and the SOO. SPAWAR then requested revised quotations. Based on its evaluation of final quotation revisions, SPAWAR determined that Dell's basic quotation offered the best value. (Dell submitted basic and alternate quotations.) Specifically, while Dell's and GTSI's revised quotations both received very good ratings under the evaluation factors for satisfaction of technical requirements and logistics and support plan, and both received acceptable ratings for SDB participation, Dell's past performance was rated excellent while GTSI's was only rated very good. SPAWAR concluded that Dell had a "slight edge" under the non-price technical factors. Source Selection Advisory Council Report at 11. In addition, Dell's evaluated price (\$60,733,475) was significantly (\$[DELETED]) lower than GTSI's (\$[DELETED]). Upon learning of the resulting award of the BPA to Dell, GTSI filed this protest with our Office.

MONITORS

In its comments on the agency reports responding to its protest, GTSI primarily argues that it was improper for SPAWAR to make award on the basis of Dell's quotation because Dell offered computer monitors that did not comply with the specifications.

In this regard, the RFQ's Section B Schedule required vendors to offer a quantity of "17 [inch] Viewable Monitor[s]" and a smaller quantity of "21 [inch] Viewable Monitor[s]." RFQ § B, High End PC & Associated Items, and Standard PC & Associated Items. When asked prior to receipt of initial quotations to confirm that the monitor descriptions required monitors "with actual viewable areas (measured

diagonally per industry standards) of 17 . . . and 21 inches as opposed to CRT tube sizes,” the agency responded in writing that its requirement was “based on viewable areas as opposed to CRT tube size.” Industry Questions/Comments and Government Response, Nov. 7, 2002. In its initial quotation, however, Dell nevertheless offered the “Dell M782, 17 in[ch] (16.00 inch VIS)” monitor to satisfy the RFQ requirement for 17-inch viewable monitors and the “Dell P1130, Trinitron, 21 in[ch] (19.8 VIS)” monitor to satisfy the RFQ requirement for 21-inch viewable monitors. Since these monitors offered viewable areas of only 16 and 19.8 inches respectively, neither of these monitors met the applicable viewable area requirement.

When SPAWAR challenged Dell during discussions to explain how its monitors would meet the viewable area requirements, SPAWAR Discussion Letter, Feb. 10, 2003 (dated 2002), at 2, Dell responded, in a submission dated February 17, 2003 (as well as February 18, 2003), that “Dell misinterpreted the RFQ specification. We would like to propose the following items as replacements which meet the RFQ specification” Dell Response, Feb. 17, 2003, at 5. Dell’s submission then listed and included a price for the Dell 19-inch M992 monitor, with an 18-inch viewable area, to meet the 17-inch viewable area requirement, and the Sony GDM-FW900 24-inch monitor, with an 22.5-inch viewable area, to meet the 21-inch viewable area requirement.

Dell’s final revised quotation dated March 20, included an “Updated CLIN Structure (Section B),” as well several other documents, and described “these documents in addition to the Dell response to SPAWAR Questions submitted on 18 February 2003 [–apparently referring the above response dated February 17–] and e-mail submittals of 24 February, 3 March and 6 March as our Final Proposal Revision.” Dell Final Revised Quotation, March 20, 2003, at 1.¹ However, while Dell’s February 17 response had substituted the Dell M992 19-inch monitor and the Sony GDM-FW900 24-inch monitor for its initially offered Dell M782 17-inch and Dell P1130 21-inch monitors, the Section B Schedule included in the March 20 final revised quotation again indicated that the Dell M782 17-inch and Dell P1130 21-inch monitors were being offered to satisfy the requirements for 17-inch and 21-inch monitors. Likewise, in “new” and “corrected” Section B Schedules submitted on March 27 and March 28, Dell continued to list the non-compliant Dell M782 17-inch and Dell P1130 21-inch monitors as being offered to satisfy the requirements for 17-inch and 21-inch monitors. Dell March 27, 2003 Submission at 2; Dell March 28, 2003 Submission at 2.

¹ Dell’s March 6 clarification included Dell’s GSA schedule price list, which included not only the compliant Dell 19-inch M992 and Sony GDM-FW900 24-inch monitors, but also the non-compliant Dell M782 17-inch and Dell P1130 21-inch monitors. (The prices offered by Dell for this procurement were less than those listed on its GSA schedule.)

The record indicates that since Dell's final revised quotation had incorporated by reference its February 17 response, which substituted the compliant Dell M992 19-inch and the Sony GDM-FW900 24-inch monitors for the previously offered monitors, SPAWAR, in its final evaluation, determined that Dell's quotation satisfied the viewable area requirement for monitors. Addendum to the Report of the Technical Evaluation Board (TEB) at 8-9; Agency Memorandum to File, May 6, 2003, at 2; Agency Report, June 9, 2003, at 31. However, Dell's final evaluated price was based on the lower price for the noncompliant Dell M782 17-inch and Dell P1130 21-inch monitors as listed in Dell's Section B Schedule. Only after the April 28 award to Dell (and as a result of concerns raised by GTSI) did the agency become aware of the discrepancy between Dell's February 17 response offering the Dell M992 19-inch and Sony GDM-FW900 24-inch monitors and Dell's Section B Schedule listing the Dell M782 17-inch and Dell P1130 21-inch monitors. Agency Memorandum to File, May 6, 2003, at 2; Agency Report, June 9, 2003, at 31. Upon learning of the discrepancy, SPAWAR determined that a mistake had been made in Dell's proposal which was correctable under the Federal Acquisition Regulation. Noting (among other considerations) that "Dell has confirmed that" the discrepancy was "a mistake on its part," and that Dell had agreed to furnish the upgraded monitors at no additional cost to the government, SPAWAR concluded that it was appropriate to "modify the BPA on a bilateral basis" to resolve the discrepancy by replacing the noncompliant monitors on Dell's Section B Schedule with the compliant Dell M992 19-inch and Sony GDM-FW900 24-inch monitors. Agency Memorandum to File, May 6, 2003, at 4.

GTSI asserts that Dell's final revised quotation was based on the offer of the monitors that were noncompliant with the viewable area requirement and that the agency's correction of this deficiency after award was improper. SPAWAR, on the other hand, maintains that Dell's final revised quotation in fact offered the compliant Dell M992 19-inch and Sony GDM-FW900 24-inch monitors.

In reviewing an agency's technical evaluation of vendor submissions under an RFQ, we will not reevaluate the quotations; we will only consider whether the agency's evaluation was reasonable and in accord with the evaluation criteria listed in the solicitation and all applicable procurement statutes and regulations. Datastream Sys., Inc., B-291653, Jan. 24, 2003, 2003 CPD ¶ 30 at 4-5; Applied Mgmt. Solutions, Inc., B-291191, Nov. 15, 2002, 2002 CPD ¶ 202 at 2. Our review of the record here shows that SPAWAR did relax the solicitation's viewable area requirement for monitors when making award to Dell but that GTSI was not prejudiced by the agency's actions.

Again, in determining that Dell's monitors satisfied the viewable area requirement, the record indicates that SPAWAR relied upon the fact that Dell's March 20 final revised quotation generally incorporated by reference Dell's 127-page February 17 response, which substituted the compliant Dell M992 19-inch and the Sony GDM-FW900 24-inch monitors for the non-compliant Dell M782 17-inch and Dell

P1130 21-inch monitors. Dell's March 20 final revised quotation, however, also included and specifically made part of its final proposal revision an "Updated CLIN Structure (Section B)" which expressly provided that the (noncompliant) Dell M782 17-inch and Dell P1130 21-inch monitors were being offered to satisfy the requirements for 17-inch and 21-inch monitors. Likewise, Dell's subsequently submitted "new" and "corrected" March 27 and March 28 Section B Schedules also listed the Dell M782 17-inch and Dell P1130 21-inch monitors as being offered to satisfy the requirements for 17-inch and 21-inch monitors.

It is a vendor's burden to submit an adequately written quotation in response to an RFQ. Godwin Corp., B-290291, June 17, 2002, 2002 CPD ¶ 103 at 4. Here, given Dell's repeated express statements in the updated, new and corrected Section B Schedules in its final submissions that it was offering the noncompliant Dell M782 17-inch and Dell P1130 21-inch monitors to satisfy the requirements for 17-inch and 21-inch monitors, the mere fact that Dell's March 20 final revised quotation also generally incorporated the earlier 127-page February 17 response did not furnish a reasonable basis for concluding that Dell was instead proposing the compliant Dell M992 19-inch and the Sony GDM-FW900 24-inch monitors. At best, Dell's commitment to furnish monitors that complied with the viewable area requirement was ambiguous, with the ambiguity not resolvable from the face of Dell's final, revised quotation.

Nevertheless, even if SPAWAR should not have accepted Dell's quotation as submitted and later permitted the firm to "correct" it via modification of the BPA, there is no basis for concluding that the agency's actions prejudiced GTSI. In this regard, our Office will not sustain a protest unless the protester demonstrates a reasonable possibility of prejudice, that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. Parmatic Filter Corp., B-285288.3, B-285288.4, Mar. 30, 2001, 2001 CPD ¶ 71 at 11; see Statistica, Inc. v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996). GTSI has not shown, nor does the record otherwise indicate, that it was prejudiced with respect to the monitor issue. The evaluated price of GTSI's quotation (\$[DELETED]) already included the price for the compliant monitors. Adjusting Dell's price upward (to \$[DELETED]) to reflect the higher price (an additional \$[DELETED]) for the compliant Dell M992 19-inch and the Sony GDM-FW900 24-inch monitors as indicated in Dell's February 17 response, still leaves the award price lowest by a substantial margin (\$[DELETED]). Agency Memorandum to File, May 6, 2003, at 3. Further, even if SPAWAR had noted the ambiguity in Dell's quotation before award and had reopened discussions to resolve it—which necessarily would have given GTSI the opportunity to revise its price—there is no basis for concluding that it

would have lowered its price sufficiently to displace Dell as the low-priced vendor.² Given Dell's advantage under the non-price factors, we are unable to find that GTSI was prejudiced.

SPARE PARTS KIT

GTSI also challenges the evaluation of Dell's quotation with regard to spare parts kits. The RFQ's SOO required that vendors provide as an optional item a spare parts kit. According to the RFQ:

The contents of the Kits will be based on the Contractor's analysis of past failures of the equipment provided and a desired 97 % availability level of the equipment supported. The contents of the kits shall be based on supporting a quantity of 50 fielded end items.

RFQ, SOO § 2.10.3. Further, vendors were required to "provide a list of the contents of the proposed Spare Parts Kits," with the contents based on an analysis of past failures of the proposed equipment. RFQ § L-2.1(c)(2). Although Dell did not provide details in its initial quotation as to what was in its spare parts kit, it subsequently furnished a detailed listing of which spare parts were in each kit, tailored to the computer the kit was supporting. Dell, however, did not specify the number of each spare part that was included in the kits.

GTSI notes that its prices for the spare parts kits were higher than Dell's prices. For example, with respect to the first year prices for the desktop computer spare parts kit, the kit which the agency indicated would account for 170 of the 231 first year spare parts kits, Dell's price was \$[DELETED] while GTSI's price was \$[DELETED]. For the remaining kits, GTSI's price also was higher than Dell's. For example, GTSI's price was more than [DELETED] times higher for a kit with an expected first year demand of two units. GTSI asserts that SPAWAR lacked a reasonable basis for finding Dell's spare parts kits to be acceptable.

Again, the statement of evaluation factors in Section M provided, with respect to the factor for satisfaction of technical requirements, that "[t]he government will evaluate the extent to which the equipment proposed by the contractor meets or exceeds the requirements of Section B of the RFQ and in the SOO." RFQ § M.3. Likewise, the statement of evaluation factors in Section M provided, with respect to the factor for logistics support plan, that "[t]he Government will evaluate the extent to which the contractor demonstrates their ability to provide Logistics Support." RFQ § M.5. We find that SPAWAR could reasonably determine that Dell had substantially complied

² GTSI now generally alleges that if it had been afforded the opportunity to revise its price "it would have certainly taken the opportunity . . . to make its proposal more competitive from a price standpoint." GTSI Comments, June 27, 2003, at 5.

with the spare parts kit requirement. In addition to listing in its revised quotation each spare part (but not the number thereof) that was included in its kits, Dell also explained the basis for determining the contents of its spare parts kits. Specifically, Dell stated that its recommended spare parts kits took into account such factors as the quantity of units and failure rate; lead times; and that the kits were designed to support 100 percent availability for parts deemed critical. Dell Response, Feb. 17, 2003, at 8-12; Agency Supplemental Report, June 20, 2003, at 53. Further, although Dell's price for the kits was significantly lower than GTSI's, the record indicates that the difference may reflect the fact that GTSI's approach to stocking the kits was different than Dell's. When advised during discussions that its kits appeared to include sufficient spare parts to build three computers from scratch, Agency Discussions Letter to GTSI, Feb. 10, 2003, at 2, GTSI responded that its intent was to provide the agency with the option of replacing an entire computer while repairs were being made to the failed computer by the original equipment manufacturer. GTSI Response, Feb. 19, 2003, at 37. GTSI, however, has pointed to nothing in the RFQ that required furnishing replacement computers rather than simply replacement spare parts. Further, to the extent that Dell's quotation lacked detail as to the number of each spare part, there is no basis in the record for concluding that any weakness in this respect was so significant that it was unreasonable for the agency to find that Dell's quotation represented the best value. In this regard, we note that even if the vendors' prices for the spare parts kits were excluded from the evaluation, the evaluated price of Dell's quotation would remain nearly approximately \$[DELETED] lower than GTSI's. See Price Evaluation Board Summary Report, Apr. 14, 2003, at 5; Agency Memorandum to File, May 6, 2003, at 3.³

The protest is denied.

Anthony H. Gamboa
General Counsel

³ GTSI also challenged several other aspects of the evaluation in its several protests. SPAWAR addressed these allegations in its reports, and the protester failed to respond in its comments; thus, we consider GTSI to have abandoned its other arguments and will not consider them further. MFVega & Assocs., LLC, B-291605.3, Mar. 25, 2003, 2003 CPD ¶ 65 at 4.