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Accountability * Integrity * Reliability

Decision

Matter of: Lyons Security Services, Inc.

File: B-289974

Date: May 13, 2002

Ira E. Hoffman, Esq., and Mark R. Mann, Esq., Grayson Kubli & Hoffman, for the protester.

Dennis J. Gallagher, Esq., Department of State, for the agency.

Mary G. Curcio, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where agency denies issuing amendment extending due date for proposals, and record contains no evidence supporting protester's claim that it received such an amendment by electronic mail, there is no basis for questioning rejection of protester's proposal--submitted by alleged extended due date--as late.

DECISION

Lyons Security Services, Inc. protests the rejection, as late, of its proposal in response to request for proposals (RFP) No. S-DA200-02-R-001, issued by the Department of State (DOS) to procure security guard services for the United States Embassy in Denmark.

We deny the protest.

The solicitation (issued on December 13, 2001), agency responses to four sets of questions submitted by offerors, and amendment No. 1 (correcting a clerical error in the RFP) were posted on the Federal Business Opportunities (FedBizOpps (www.weeps.gov)) and Statebuy (www.statebuy.gov) Internet sites. Proposals were to be submitted no later than 2 p.m. on February 12, 2002.¹ Lyons submitted a proposal on February 20, which the agency rejected as late.

¹ DOS explains that solicitations for services that are required overseas generally are posted, along with any amendments and other relevant information, on the FedBizOpps and Statebuy Internet sites. When amendments are issued to posted

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Lyons protests that its proposal was improperly rejected, because amendment No. 2, of which Lyons claims it was notified by e-mail, extended the due date for proposals until February 22, and it submitted its proposal by that date. DOS states that it never issued an amendment No. 2, or any other amendment extending the closing date.

The record, including a hearing conducted (telephonically) by our Office, provides no basis for sustaining the protest. Lyons testified that, after receiving the e-mail notifying it that amendment No. 2 had been issued, it then accessed the amendment through a link included in the e-mail, downloaded the amendment, and deleted the e-mail. Lyons was unable to identify the Internet site from which the e-mail was sent, or the site from which it allegedly downloaded amendment No. 2. (Lyons's efforts to recover the allegedly deleted e-mail also were unsuccessful.)

The agency testified through various contracting officials, including the contracting officer, the contracting specialist, and two members of the Office of the Procurement Executive (OPE). The contracting officer and the contracting specialist testified that the only persons authorized to issue solicitation amendments are the contracting officer or persons authorized by the contracting officer to do so. The contracting officer further testified that he neither prepared nor issued an amendment No. 2 to the solicitation, and did not authorize anyone else to do so. The contracting officer also testified that he never considered issuing a second amendment or extending the due date for proposals. The contracting officer, as well as the members of the OPE, further testified that the contracting officer does not himself post solicitations or amendments to the FedBizOpps and Statebuy Internet sites, and that only persons who have been given the password can do so. The members of the OPE testified that no person with the password was authorized to post an amendment No. 2 to the Internet sites, and that none did so.

We conclude that, Lyons's assertions notwithstanding, it has presented, and the record contains, no evidence either that it received an amendment extending the closing date, or that DOS ever issued such an amendment. Accordingly, we have no basis to question the rejection of Lyons's offer as late.

We deny the protest.

Anthony H. Gamboa
General Counsel

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solicitations, the websites automatically notify registered users of the change by electronic mail (e-mail). The e-mail also contains a link to the location that the user can access to locate and download the amendment. Declaration of Robert E. Lloyd, Office of the Procurement Executive (OPE).