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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Solutions Lucid Group, LLC

File: B-401128

Date: April 2, 2009

Lyle Glover for the protester.

Elan Taylor, Esq., Defense Logistics Agency, for the agency.

Jennifer D. Westfall-McGrail, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly failed to give the protester adequate notice of a procurement by failing to send the protester a copy of the solicitation is denied where the record shows that the agency properly provided constructive notice of the procurement to all potential offerors, including the protester, through publication of the solicitation on the Federal Business Opportunities website.

DECISION

Solutions Lucid Group, LLC (SLG) protests the award of a contract to Blond Lighting Fixture Supply Company under request for proposals (RFP) No. SPM4A6-08-R-0166, issued by the Defense Supply Center Richmond for fluorescent lamp starters. The protester contends that the agency improperly failed to furnish it with adequate notice of the RFP.

We deny the protest.

The RFP, which was issued on February 27, 2008, contemplated the award of an indefinite-quantity contract for a base and 4 option years; the estimated annual quantity to be ordered under the contract was 230,892. The RFP was synopsisized and posted on the Federal Business Opportunities (FedBizOpps) website. The solicitation was amended three times, with a final closing date of December 4, 2008. Five offerors submitted proposals; the protester was not among them. The agency awarded a contract to Blond Lighting Fixture Supply Company on December 23.

The protester argues that it did not submit a proposal because it was unaware of the RFP and that this was the agency's fault. SLG maintains that had the agency

properly identified the protester as an approved source of supply, the agency would have furnished it with a copy of the RFP and it would have submitted a proposal; thus, in SLG's view, it was the agency's failure to properly identify it as a source of supply that resulted in SLG being unaware of the RFP and not participating in the competition.

The protester is in essence arguing that the agency was required to furnish it with individual notice of the RFP. We disagree. As noted above, the solicitation at issue here was posted on the FedBizOpps website. FedBizOpps has been designated as the government-wide point of entry (GPE)—that is, the single point where government business opportunities greater than \$25,000, including synopses of proposed contract actions, solicitations, and associated information, can be accessed electronically by the public. Federal Acquisition Regulation § 2.101. Offerors are charged with constructive notice of procurement actions published on the GPE. DBI Waste Sys., Inc., B-400687, B-400687.2, Jan. 12, 2009, 2009 CPD ¶ 15. Thus, even assuming, as SLG argues, that it should have been listed as an approved source of supply in the RFP (and therefore would have received a copy of the RFP directly from the agency), the protester nevertheless was on constructive notice of the contents of the RFP as a result of the FedBizOpps posting. Because the protester had constructive notice, the agency was under no obligation to furnish it with separate notice of the RFP. PR Newswire Ass'n, LLC, B-400430, Sept. 26, 2008, 2008 CPD ¶ 178 at 2.

The protester also argues that it would have been on notice of the RFP had the agency not responded in a misleading manner to an email message SLG sent regarding the status of a prior RFP for the same item. (According to the protester, the agency responded to its inquiry regarding the first solicitation with information pertaining to the second, which resulted in SLG failing to understand that the second solicitation had been issued.) The record fails to support the protester's allegation that the agency furnished it with misleading information, however; thus, this argument also is without merit.

The protest is denied.

Gary L. Kepplinger
General Counsel