



Decision

Matter of: Ideal Fastener Corporation

File: B-404206

Date: January 11, 2011

Marc Lamer, Esq., Kostos & Lamer, PC, for the protester.
Seth Bogin, Esq., and William Robinson, Esq., Department of Justice, for the agency.
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DIGEST

Protest challenging UNICOR's use of the term "fasteners," rather than "slide fasteners," in title of solicitation notice posted on the Federal Business Opportunities website is denied where the solicitation notice was not misleading, and thus did not deprive the protester of an opportunity to respond to the solicitation.

DECISION

Ideal Fastener Corporation (IFC), of Oxford, North Carolina, protests request for proposals (RFP) No. CT2025-10, issued by Federal Prison Industries (UNICOR) for twenty-two commercial products to be used in the manufacture of military uniforms. IFC argues that the title of the synopsis for the solicitation posted by UNICOR on the Federal Business Opportunities website (FedBizOpps)¹ was misleading where it referenced "fasteners," rather than the actual solicitation requirement for "slide fasteners," and thus, frustrated IFC's ability to respond to the solicitation.

We deny the protest.

¹ FedBizOpps, www.fbo.gov, is the government-wide point of entry ("GPE") for the electronic publication of solicitation notices. Federal Acquisition Regulation (FAR) § 2.101 (2010).

BACKGROUND

UNICOR uses production facilities located in correctional institutions operated by the Federal Bureau of Prisons to produce various goods and services for government agencies. Contracting Officer's (CO) Statement, at 1. Among the goods UNICOR produces are military uniforms, including Army Combat Uniforms ("ACUs") and Battle Dress Uniforms ("BDUs"), for the Department of the Army. Id. As such, UNICOR periodically purchases items such as hook and loop fasteners (commonly known as Velcro) and slide fasteners (commonly known as zippers) for use in the manufacture of these military uniforms. Id.

On August 19, 2010, pursuant to FAR § 12.603, UNICOR posted the RFP as a combined synopsis/solicitation on FedBizOpps.gov. UNICOR titled the combined synopsis/solicitation "Commercial Items, Hook & Loop, Fasteners, Barrel Locks for ACU & BDU's." AR, Tab 3, FedBizOpps Solicitation Notice for CT2025-10, at 1. The synopsis described the products to be purchased under the RFP as "Fasteners, used in the manufacture of Army Combat Uniforms (ACU's), Battle Dress Uniforms (BDU's), and Special Purpose Clothing" and advised that a "complete description of the items" was contained in section B of the RFP, which could be obtained by clicking on a web-link. Id. at 1-2. The combined synopsis/solicitation also included a link to a document entitled "Item Specification Text," which, together with the RFP, identified, and described in detail, the twenty-two individual items UNICOR sought to procure. RFP at 2-18; AR, Tab 5, Item Specification Text, at 1-9. These items were six types of hooks, eight types of loops, seven types of slide fasteners (varying in length and color), and one type of barrel lock. The solicitation also stated that UNICOR intended to make three separate awards under the solicitation, one for the hook and loop items, one for the slide fasteners, and one for the barrel locks. AR, Tab 4, Solicitation No. CT2025-10, at 19.

IFC explains that it is a long-time supplier of slide fasteners to the federal government but that it does not produce hook and loop fasteners. Protest, at 2-3. While conducting a search of FedBizOpps for potential contracting opportunities, one of IFC's employees viewed the title of the notice for the combined synopsis/solicitation; however, because the title did not use the term "slide fasteners" or "zippers," the employee did not open the link to the actual synopsis, which would have led IFC to the RFP and item specifications. Id. at 2. As a result, IFC did not submit a proposal in response to the RFP. Upon learning that the RFP provided for the award of a contract for slide fasteners, albeit after the RFP's closing date had passed, IFC filed the subject protest with our Office.

DISCUSSION

IFC argues that by using the term “fasteners” instead of the more specific terms “slide fasteners” or “zippers” in the title of the combined synopsis/solicitation, UNICOR failed to properly identify the procurement on FedBizOpps and thereby frustrated IFC’s ability to compete for the slide fasteners portion of the procurement. Protest at 3. In support of this premise, IFC cites three previous notices posted to FedBizOpps in which UNICOR used the words “slide fasteners” and “zippers” in the titles as opposed to the term “fasteners.” Protester Comments, at 1. IFC’s arguments are without merit.

The Competition in Contracting Act of 1984 generally requires that contracting agencies obtain full and open competition through the use of competitive procedures. 41 U.S.C. § 253(a)(1)(A) (2006). In furtherance of this goal, agencies are required to use reasonable methods to publicize their procurement needs. Kendall Healthcare Prods. Co., B-289381, Feb. 19, 2002, 2002 CPD ¶ 42 at 6. The official public medium for providing notice of contracting actions by federal agencies is the FedBizOpps website, which has been designated by statute and regulation as the government-wide point of entry. 15 U.S.C. § 637(e); 41 U.S.C. § 416; FAR §§ 2.101, 5.101(a)(1), 5.201(d). The notice provided by an agency must include an “accurate description” of the property or services to be purchased, sufficient to provide prospective offerors with the ability to make an informed business judgment as to whether to request a copy of the solicitation,² see 41 U.S.C. § 416(b)(1); TMI Management Sys., Inc., B-401530, Sept. 28, 2009, 2009 CPD ¶ 191 at 3.

Here, the combined synopsis/solicitation posted by UNICOR on FedBizOpps was not misleading and provided potential offerors, such as IFC, with notice of the intended procurement, which included the acquisition of slide fasteners. As IFC concedes, the term “fasteners,” which appeared in the title of the combined synopsis/solicitation, refers to a number of different commercial items—including slide fasteners. Protest at 2-3. Given that slide fasteners are a type of fastener, the title of the combined synopsis/solicitation accurately reflected the fact that the RFP may have potentially included a requirement for slide fasteners. It was therefore incumbent on IFC to review the actual synopsis, RFP, and items specifications, all of which were easily available to IFC, to determine whether the procurement in fact

² Although the relevant statutes and our decisions citing them refer to prospective contractors requesting a copy of the solicitation, in this case, as noted above, UNICOR posted its notice as a combined synopsis/solicitation. As such, the RFP was available to all interested offerors, including IFC, through the initial FedBizOpps posting, without having to actually request a copy.

included a requirement slide fasteners.³ In this regard, we have held that potential offerors such as IFC have an affirmative duty to make every reasonable effort to obtain solicitation materials. See Jess Bruner Fire Suppression, B-296533, Aug. 19, 2005, 2005 CPD ¶ 163, at 3-4.

IFC suggests that UNICOR had established a practice of using the more specific terms slide fasteners or zippers, as opposed to the more general term fasteners, when posting notices of procurements for slide fasteners, and that using these specific terms would have been more appropriate.⁴ IFC's arguments do not provide a basis for finding the agency's actions unreasonable or improper. There is nothing in the record to indicate that UNICOR had an official policy of using these more specific terms. To the contrary, UNICOR notes--and IFC does not dispute--that it has on at least two separate occasions posted solicitations to FedBizOpps which contained only the word "fasteners" in the title, including one in which the protester was awarded a contract for slide fasteners. AR, Tab 14, Notice of Award for Solicitation No. CT1835-07, at 1; AR, Tab 15, Notice of Award for Solicitation No. CT1704-05, at 1. It is apparent that IFC's belief regarding how UNICOR titled its solicitation notices was an assumption made by IFC, and IFC therefore bore the risk that its assumption was incorrect. As we have held, each procurement is a separate transaction, and an agency's practices or actions under one procurement do not bind its practices or actions on other procurements. See Southern CAD/CAM, B-254201,

³ IFC argues that our decision in TMI Management Sys. Inc., *supra*, at 3, supports its contention that UNICOR's use of the term "fasteners" in the title of the notice was improper. Protest at 3. The protester's reliance on TMI is misplaced. In TMI we found that the agency had used an erroneous classification in its notice, which made it "difficult, if not impossible" for the protester to locate the solicitation notice using reasonable search terms. TMI Management Systems, Inc., *supra*, at 5. Unlike TMI, here, it is undisputed that UNICOR used the appropriate codes in classifying the solicitation and its actions did not make it difficult, or otherwise impossible to locate the solicitation notice. To the contrary, one of IFC's employees in fact located the solicitation notice, but decided not to review the synopsis or RFP.

⁴ While the protester also contends that the title was misleading because the words "Hook & Loop, Fasteners" could possibly be read together as one item, rather than separate items, we reject this argument. Without delving into the rules of grammar, it is enough to say that the location of the word "Fasteners" in the title "Commercial Items, Hook & Loop, Fasteners, Barrell Locks for ACU & BDU's", did not indicate that the agency was not purchasing slide fasteners and was not so confusing that it deprived IFC of an opportunity to compete under the solicitation.

Nov. 16, 1993, 93-2 CPD ¶ 278 at 4; see also The Standard Register Company, B-289579, March 5, 2002, 2002 CPD ¶54 at 2-3 (an agency is not bound by its prior practices “since past practice lacks the force and effect of law”).

The protest is denied.

Lynn H. Gibson
General Counsel