



Decision

Matter of: Home EC, Inc. d/b/a Connect Homes

File: B-422542.2

Date: June 7, 2024

Irina J. Mazor, Esq., and Peter F. Lindborg, Esq., Lindborg & Mazor, LLP, for the protester.

Matthew Lane, Esq., Ekta Patel, Esq., and Lisa Dilliplane, Esq., Department of Homeland Security, for the agency.

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DIGEST

Protest that the agency unreasonably rejected the offeror's proposal as late is dismissed where the Uniform Time Act of 1966 establishes a standard time for purposes of government operations, and the proposal was submitted after the time set for receipt of proposals in the applicable time zone.

DECISION

Home EC, Inc. d/b/a Connect Homes, of Mesa, Arizona, protests the rejection of its proposal under request for proposals (RFP) No. 70FBR924R00000005, issued by the Department of Homeland Security, Federal Emergency Management Agency (FEMA) for the manufacturing and installation of temporary housing units. Connect Homes argues that the agency unreasonably rejected its proposal as late.

We dismiss the protest.

On March 26, 2024, FEMA issued the RFP for the manufacturing, designing, transportation, and installing of temporary housing units in Maui, Hawaii. See Protest, exh. A, RFP, amend. 2 at 6-38.¹ The RFP contemplates the award of multiple indefinite-delivery, indefinite-quantity contracts to be performed over a 1-year base

¹ The protester submitted its exhibits as part of the protest in one combined Adobe PDF document. When referencing the exhibits, GAO uses the PDF page numbers for the document rather than the page numbers listed on individual pages of the filing.

period, and two 1-year option periods. *Id.* at 39. Any order will be issued as fixed price. *Id.*

The RFP provides for a two-phase evaluation. Protest, exh. A, RFP, amend. 2 at 41. In phase one, offerors are required to demonstrate their corporate capacity and technical approach. *Id.* In phase two, offerors must conduct an oral presentation, as well as provide past performance and proposed pricing information. *Id.*

Phase one proposals were required to be delivered to FEMA through email by “2pm Eastern Standard Time” on April 25, 2024. Protest, exh. A, RFP, amend. 2 at 44. Connect Homes submitted its phase one proposal in advance of the deadline. Protest at 2. FEMA evaluated Connect Homes’s proposal as “among the most highly technically rated.” Protest, exh. B, Letter from FEMA to Connect Homes at 49. FEMA informed Connect Homes that its phase two proposal submission must be delivered through email “no later than 2 pm EST” on May 24, 2024. *Id.*

Connect Homes submitted its phase two proposal at 2:04 pm Eastern Time on May 24. Protest at 3. Later that afternoon, FEMA rejected Connect Homes’ phase two proposal as late, explaining that the proposal was submitted four minutes after the deadline. *Id.*; see also Req. for Dismissal, attach. A, Emails Between Agency and Connect Homes at 3-4.

On May 27, Connect Homes filed this protest with our Office. Connect Homes argues that the agency unreasonably rejected its proposal as late. Connect Homes explains that FEMA communicated the deadline for phase two proposals as 2:00 pm Eastern Standard Time, and that such time is equivalent to 3:00 pm Eastern Daylight Time. Protest at 3. Thus, because Connect Homes submitted its phase two proposal at 2:04 pm Eastern Daylight Time, the firm argues that its proposal was submitted in advance of the deadline. *Id.*

The agency requests dismissal of the protest, arguing that the allegation is legally insufficient. Req. for Dismissal at 2. FEMA argues that the Uniform Time Act of 1966 establishes the local time as the recognized standard time, and that the local time simply moves one hour depending on the time of year. *Id.* at 2-3. In other words, FEMA explains that the law prescribes that references to “Standard” versus “Daylight” time are inconsequential because the recognized local time controls. *Id.* at 3. Based on this interpretation, FEMA argues that the agency’s instruction to submit phase two proposals “no later than 2pm EST” means proposals must be submitted 2:00 pm Eastern Time, as opposed to 3:00 pm Eastern Daylight Saving Time (EDT). *Id.*

Connect Homes responds that proposals were to be delivered electronically, and therefore, there was no recognized local time to apply. Resp. to Req. for Dismissal at 1-2. As a result, Connect Homes argues that references to “Standard” versus “Daylight” time must be applied, and that the agency’s reference to “2pm EST” means that proposals must be submitted by 3:00 pm EDT. *Id.* at 2-5.

Our Bid Protest Regulations require that a protest must be supported by legally sufficient grounds. 4 C.F.R. 21.5 (f). Allegations which facially do not demonstrate improper agency action are legally insufficient. See *INNOVIM, LLC*, B-419912, B-419912.2, Sept. 21, 2021, 2021 CPD ¶ 331 at 5.

Here, we agree with FEMA that the protest allegation is legally insufficient because it does not demonstrate improper agency action. In this regard, 15 U.S.C. § 260a provides, in relevant part, as follows:

During the period commencing at 2 o'clock antemeridian on the second Sunday of March each year and ending at 2 o'clock antemeridian on the first Sunday of November of each year, the standard time of each zone established by the Act of March 19, 1918 (15 U.S.C. §§ 261-264), as modified by the Act of March 4, 1921 (15 U.S.C. § 265), shall be advanced one hour and such time as so advanced shall for the purposes of such Act of March 19, 1918, as so modified, be the standard time of such zone during such period[.]

15 U.S.C. § 260a. Further, 15 U.S.C. § 262 provides, in relevant part, as follows:

In all statutes, orders, rules, and regulations relating to the time of performance of any act by any officer or department of the United States, whether in the legislative, executive, or judicial branches of the Government, or relating to the time within which any rights shall accrue or determine, or within which any act shall or shall not be performed by any person subject to the jurisdiction of the United States, *it shall be understood and intended that the time shall insofar as practicable (as determined by the Secretary of Transportation) be the United States standard time of the zone within which the act is to be performed.*

15 U.S.C. § 262 (emphasis added). Taken together, these provisions explain that the standard time moves one hour depending on the time of year, and that government activities must be conducted in accordance with the standard time applicable in each time zone.

Additionally, we have expressly interpreted these provisions as having the following practical effect:

[T]here is no longer a distinction to be made between standard time and daylight time. Rather, within each time zone there is . . . only the preestablished standard time regardless of the fact that during a certain portion of the year that standard time is advanced 1 hour. Hence, the standard time of the various zones and the popular reference to 'Daylight Saving Time' must be considered as one and the same.

Ryan Contracting Co., Inc., B-167641, Sept. 11, 1969, 49 Comp. Gen. 164, at 4; *accord SBBI, Inc.*, B-405754, Nov. 23, 2011, 2011 CPD ¶ 258 at 2 (explaining that there is one standard time for most governmental purposes which is the local time, regardless of whether it is referred to as standard or daylight time).

As a result, we conclude that the protest allegation is legally insufficient because it does not allege improper agency action. The agency advised that proposals must be submitted by “2 pm EST” on May 24, which meant that proposals were to be submitted by 2:00 pm Eastern Time on that date. Further, Connect Homes admits that it submitted its proposal at 2:04 pm Eastern Time, and therefore, we conclude that the agency reasonably rejected the firm’s proposal. See Protest at 3; *see also Radar Devices, Inc.*, B-249118, Oct. 27, 1992, 92-2 CPD ¶ 287 at 3 (“It is the responsibility of the offeror to deliver its proposal to the proper place at the proper time, and late delivery generally requires rejection of the proposal.”).

While Connect Homes may argue that the reference to “EST” means that proposals were not due until 3:00 pm Eastern Daylight Savings Time, we are unpersuaded. See Resp. to Req. for Dismissal at 2-4. First, we see no good reason why we should resurrect an anachronistic distinction that contradicts the United States’ policy of establishing a uniform standard time, as well as the above statutory provisions. See 15 U.S.C. § 260 (“It is the policy of the United States to promote the adoption and observance of uniform time within the standard time zones . . . [t]o this end the Secretary of the Transportation is authorized and directed to foster and promote widespread and uniform adoption and observance of the same standard of time within and throughout each such standard time zone.”). Second, whether proposals must be delivered electronically or by hand, they still must be delivered to government officials who operate in accordance with the standard time applicable in each time zone.²

The protest is dismissed.

Edda Emmanuelli Perez
General Counsel

² As a final matter, we note that our review shows that Connect Homes understood the deadline to be 2:00 pm Eastern Time, as opposed to 3:00 pm Eastern Time because, after being notified that its proposal was late, the firm explained, “[a]pologies. We experienced technical difficulties. We were 4 minutes late on delivery. Is there any way we can plead this case?” Req. for Dismissal, attach. A, Emails Between Agency and Protester at 3.