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**Comptroller General  
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**United States Government Accountability Office  
Washington, DC 20548**

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The decision issued on the date below was subject to a GAO Protective Order. No party requested redactions; we are therefore releasing the decision in its entirety.

## Decision

**Matter of:** Hi-Tech Bed Systems Corporation

**File:** B-406925

**Date:** September 27, 2012

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Philip A. Nicholas, Esq., Nicholas & Tangeman, LLC, for the protester.  
Sean D. Forbes, Esq., and Bryant S. Banes, Esq., Neel, Hooper & Banes, P.C., for AVTEQ Inc., an intervenor.  
C. Clay Weisenberger, Esq., Department of the Army, Corps of Engineers, for the agency.  
Paul N. Wengert, Esq., and Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest that agency conducting competition among Federal Supply Schedule vendors should have rejected successful vendor's quotation because, although the vendor's revised quotation complied with solicitation requirements, the vendor's initial quotation did not, is denied where agency evaluation was reasonable and consistent with solicitation.

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### DECISION

Hi-Tech Bed Systems Corporation, of Wheatland, Wyoming, a small business, protests the issuance of three Federal Supply Schedule (FSS) orders to AVTEQ, Inc., of Dallas, Texas, by the Department of the Army, Corps of Engineers, under request for quotations (RFQ) No. W912DY-11-T-0046 to supply furniture and accessories, and associated installation services, for dormitory barracks for three buildings at Fort Leonard Wood, Missouri. Hi-Tech argues that AVTEQ's quoted products failed to meet RFQ requirements.

We deny the protest.

### BACKGROUND

The Corps issued the RFQ on January 6, 2012, seeking quotations from firms holding FSS contracts under the furniture schedule (Schedule 71), to supply and install dormitory furniture (rack sleeper beds, mattresses, and wardrobes) and appliances (refrigerator/freezers, televisions, ice makers, microwave ovens, and

clothes washers and dryers). RFQ attach. 1, price schedule, at 1-2; attach. 2,<sup>1</sup> product specifications, at 1-5. The RFQ “strongly encouraged” firms to submit quotations for items on their FSS contracts, but permitted submission of non-schedule items up to a value of \$3,000 per item<sup>2</sup> and \$25,000 per order. RFQ at 5-6.

The RFQ required vendors to show that their beds and wardrobes met GSA testing requirements, and were listed on the GSA Advantage web site, as follows:

Cut sheets required for items a. [the rack storage sleeper (bed unit)] and b. [the wardrobe] must indicate certified current GSA testing and approval and listing on GSA Advantage.

RFQ attach. 2, product specifications, at 2.

On January 19, the Corps issued amendment 1 to the RFQ, which extended the quotation due date by 10 days, to January 27, and revised the product specifications, as follows:

Cut sheets required for items a. and b. must indicate ~~certified~~ current GSA testing and approval and listing on GSA ~~Advantage~~ Schedule Contract.

RFQ amend. 2 at 2 (struck text in original).

The RFQ stated that quotations would be evaluated for technical acceptability, and that a vendor would be selected from among those that submitted acceptable quotations based on three factors, in descending order of significance: price, “furniture install completion,” and past performance. RFQ at 7-8.

The Corps received three quotations from AVTEQ, Hi-Tech, and a third firm.<sup>3</sup> On May 1, the evaluators reported to the contracting officer that all three quotations were unacceptable. Hi-Tech’s quotation was viewed as unacceptable because the evaluators concluded that, among other things, it did not show that the offered bed had met the testing requirements, its wardrobe did not conform to dimensions specified in the RFQ, and neither the bed nor the wardrobe appeared to be on the

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<sup>1</sup> Although the RFQ provided separate product specifications for each of the three buildings, the provisions at issue in this protest were identical, thus our citation is generally to all three, and does not differentiate among them.

<sup>2</sup> The RFQ permitted non-schedule items over \$3,000 per item only if the offeror submitted three competitive price quotations as support. RFQ at 6.

<sup>3</sup> Two other firms were invited to submit quotations, but declined.

firm's FSS contract. AR, Tab 5, Technical Evaluation, at 1, 3 (initial technical evaluation). AVTEQ's quotation was viewed as unacceptable because the firm did not supply its teaming agreement with the supplier of its bed and wardrobe, the offered bed did not match the model number in the firm's GSA contract, and the wardrobe did not meet the required dimensions. Id.

The Corps informed both vendors of the deficiencies in their respective quotations, and requested revised quotations by May 3. AVTEQ and Hi-Tech timely submitted revised quotations. As relevant to the protest, the evaluators found that AVTEQ's revised quotation submitted a corrected model number for the bed, a revised GSA product catalog for AVTEQ's teaming partner which listed the bed and wardrobe, and the GSA Bed Testing Approval document.<sup>4</sup> Id.

After reviewing the revised quotations, the evaluators found both AVTEQ's and Hi-Tech's quotations to be acceptable.<sup>5</sup> AR, Tab 5, Technical Evaluation, at 4 (evaluation of revised quotations). The evaluators then calculated an evaluated price for both firms (including shipping and storage costs), and evaluated both vendors under the completion time and past performance factors. The evaluation results were as follows:

<b>Vendor</b>	<b>Evaluated Price</b>	<b>Installation Time</b>	<b>Past Performance</b>
AVTEQ	\$1.20 million	9 weeks	Outstanding
Hi-Tech	\$1.36 million	4 weeks	Above Average

AR, Tab 8, Source Selection Decision, at 6.<sup>6</sup>

The contracting officer reviewed the evaluation, and determined that AVTEQ's price advantage outweighed the faster installation time proposed by Hi-Tech. Although AVTEQ's past performance was evaluated as superior to Hi-Tech's, the contracting officer concluded that AVTEQ's advantage in this regard was minor and did not materially affect his source selection judgment. Id. Accordingly, the contracting officer selected AVTEQ as the successful vendor. Upon receiving notice of the source selection, Hi-Tech filed this protest.

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<sup>4</sup> Included with AVTEQ's revised quotation was a "GSA Testing Approval" document, stating that the quoted bed had been approved, which referenced the product listing in an attached GSA Catalog "dated January 2010 (corrected 3/12/12)." AR, Tab 7, AVTEQ Revised Quotation, at cut sheets 000009 & 000010.

<sup>5</sup> Although the third firm also submitted a revised quotation, it was evaluated as unacceptable once again, and was not further considered.

<sup>6</sup> Our decision here consolidates separate tables in the agency record and rounds the firms' evaluated prices.

## ANALYSIS

Hi-Tech raised a number of allegations in its initial protest. In response to a dismissal request filed jointly by AVTEQ and the Corps,<sup>7</sup> the protester narrowed its complaints to a single issue: that to be technically compliant with the RFQ requirements a vendor's products had to meet GSA testing standards and be listed on GSA Advantage on January 27, 2012 (the date that initial quotations were due, pursuant to RFQ amendment 1). Protester's Dismissal Response at 2-3. Hi-Tech argued that AVTEQ's beds did not meet those requirements on January 27, and, therefore, the Corps should have deemed AVTEQ's final quotation unacceptable. Id.

The Corps maintains, and we agree, that vendors' final quotations were not limited to products that met the testing and listing requirements on January 27, the due date for the initial quotations. The Corps notes that, after determining that all three of the initial quotations were unacceptable, the agency advised each vendor of its quotation's unacceptability, and requested revised quotations. All vendors, including Hi-Tech, were thus treated equally by receiving the same opportunity revise their quotations; the vendors were not prohibited from offering products that differed from their initial quotations. Contracting Officer's Statement at 6; AR at 7.

Where, as here, an agency issues an RFQ to GSA FSS contractors under Federal Acquisition Regulation (FAR) subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. Digital Solutions, Inc., B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4; DEI Consulting, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. When an agency announces its intention to order from an FSS vendor, all items quoted and ordered are required to be on the vendor's FSS contract at the time the order is issued. AINS, Inc., B-405902.3, May 31, 2012, 2012 CPD ¶ 180 at 8.

Applying these principles to the procurement here, there was no requirement that, to be ultimately eligible for award, the items in AVTEQ's initial quotation had to have been listed on its supplier's schedule contract at the time initial quotations were submitted. Rather, the relevant date here, for an FSS order, is the date the order is issued. AINS, Inc., supra. Further, the terms of the RFQ at issue here did not impose such a requirement, nor did the RFQ otherwise restrict vendors from quoting different items in their revised quotations than those contained in their initial

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<sup>7</sup> Our Office denied the dismissal request because the narrowed protest issue required consideration of whether AVTEQ's quotation complied with the terms of the RFQ. Fax from GAO to Parties, July 20, 2012, at 1. Nevertheless, by narrowing its protest to the single issue, Hi-Tech necessarily withdrew the remainder of its original protest issues.

quotations. Thus, we see no basis to question the Corps's evaluation of the revised quotation as acceptable because AVTEQ relied on a testing approval that referenced an FSS contract amendment for its supplier dated after the due date for initial quotations.

Although Hi-Tech also argues that the product information in AVTEQ's revised quotation does not provide "sufficient detail to show what product AVTEQ is required to provide," Protester's Comments at 4, Hi-Tech's complaint provides no basis to sustain the protest. As described above, the revised quotation identified AVTEQ's quoted bed model, provided evidence of successful testing of the quoted model, and included line drawings of the design of the quoted model, which the Corps found satisfactory in its final evaluation. AR, Tab 5, Technical Evaluations, at 4 (evaluation of revised quotations). Hi-Tech's disagreement with the agency's judgment regarding the sufficiency of the information AVTEQ submitted does not constitute a basis for sustaining the protest. TCBA Watson Rice, LLP, B-402086.6, B-402086.7, Sept. 8, 2010, 2010 CPD ¶ 229 at 7.

The protest is denied.

Lynn H. Gibson  
General Counsel