

Word Doc In Lieu Of PDF Costs Tech Company \$25M Award

By **Nicole Rosenthal**

Law360 (June 3, 2022, 7:26 PM EDT) -- A technology company can't get a second shot at a lost \$25 million military award after the U.S. Government Accountability Office ruled that it should have followed instructions to submit a PDF file rather than a Microsoft Word document.

GAO general counsel Edda Emmanuelli Perez rejected Defense Solutions Group LLC's protest at being eliminated from the competition for an information technology task order, saying the company was clearly advised that it would be disqualified if submission instructions weren't followed, and it did not challenge the Defense Information Systems Agency's ground rules in a timely manner before the proposals were due.

"The solicitation clearly informed offerors that they were required to adhere to all solicitation administrative requirements, to include submission of the DD Form 254 as a stand-alone PDF file," Perez wrote in the Feb. 15 decision, released Thursday. "Accordingly, to the extent DSG now contends that DISA's administrative requirements were immaterial or irrelevant requirements, such a challenge constitutes an untimely challenge to the terms of the solicitation."

Defense Solutions is a coalition of small-business members established under the Defense Information Systems Agency's Encore contract. The group provides IT services like data backup, infrastructure maintenance and service desk support.

The IS agency had solicited proposals for services in support of a computing ecosystem contract, and Defense Solutions submitted its proposal before the Oct. 25 due date. On Nov. 1, the agency notified the contractor that its proposal was excluded from consideration because a required form was submitted as a picture in a Word document, and not separately as a stand-alone PDF. The agency also stated that a separate attachment in Defense Solutions' submission did not include a response to additional instructions, according to the GAO's opinion.

Perez said that the agency's request for proposals specifically included instructions that the form be attached in PDF format as well as a warning that proposals that failed to meet such requirements would not be considered for the award. The agency also answered a number of questions about the requirements in a Q&A included in the request for proposals, she said.

Defense Solutions had argued in its protest that the administrative requirements weren't rational or relevant to any legitimate agency need, and that the image was "visually identical" to the PDF it was required to submit, according to the opinion. The contractor also contended that the provisions of the form in question are not relevant until after the award is made, and thus it should not have been excluded before the merits of its proposal were considered.

"The protester asserts that the agency report provided no explanation how an image file of [the form] impeded or made evaluation of proposals more difficult or why the completed [form] was needed at the time of proposal submission," Perez wrote. "The protester further asserts that the agency report did not include any explanation of what differentiates a Word image file from a PDF file."

But Perez said that the company should have brought up its arguments earlier, noting that the deadline to file complaints based on solicitations comes before initial proposals are due.

"DSG's complaint about the agency's enforcement of this clearly stated threshold requirement is, in essence, an assertion that the solicitation's requirement was unreasonable," Perez wrote. "Under our bid protest regulations, protests based upon alleged improprieties in a solicitation, which are apparent prior to the time set for receipt of initial proposals, must be filed prior to that time."

Requests for comment Friday from the agency and Defense Solutions were not immediately returned.

GAO attorneys Paula A. Williams and Edward Goldstein participated in the preparation of the decision.

Defense Solutions Group LLC is represented by J. Bradley Reaves and Beth V. McMahon of ReavesColey PLLC.

The Defense Information Systems Agency is represented in-house by Joseph A. Buitron and Michelle L. Sabin.

The case is the matter of Defense Solutions Group LLC, file number B-420353, before the U.S. Government Accountability Office.

--Editing by Karin Roberts.