

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
(BID PROTEST)

ARCH SYSTEMS, LLC
1800 Washington Blvd., Suite 421
Baltimore, Maryland 21230

Plaintiff

v.

THE UNITED STATES OF AMERICA
c/o The U.S. Department of Justice
Commercial Litigation Branch
1100 L Street NW, 8th Floor
Washington, DC 20530

Defendant

1:23-cv-01676

Civil Action No. _____

COMPLAINT

Plaintiff, ARCH SYSTEMS, LLC (“Arch Systems” or “Plaintiff”), by and through its undersigned counsel and pursuant to the Federal Rules of Civil Procedure and the Rules of the Court of Federal Claims, files this Complaint against the United States of America, acting by and through the United States Department of Homeland Security, Customs and Border Protection (“CBP,” “Agency,” or “Government”), and alleges as follows:

NATURE OF THE ACTION

1. This is a post-award protest by an interested party objecting to the evaluation of quotes under Request For Quote No. 70B04C23QOITESB2 (“RFQ” or “Solicitation”) and the subsequent award of a blanket purchase agreements to Zantech IT Services Inc.; Savee Consulting Inc.; Flatter, Inc.; Dignari, LLC; Cybermedia Technologies Inc. d/b/a CTEC; Chevo Consulting; and Catalina Solutions LLC (collectively “Awardees”).

2. Arch Systems, by this Complaint, respectfully seeks declaratory and other relief

against the Agency.

3. Arch Systems has reached out to the Department of Justice (“DOJ”), requesting that the Agency voluntarily stay contract performance under this procurement until the resolution of this protest. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. In the interests of judicial economy, Arch Systems is not presently requesting a temporary restraining order or preliminary injunction; however, [REDACTED]

[REDACTED]

[REDACTED], Arch Systems reserves the right to request a temporary restraining order, preliminary injunction, or both, seeking the immediate stay of performance, in addition to the permanent injunction requested by Arch Systems below.

PARTIES

5. Arch Systems is a limited liability company organized under the laws of the State of Maryland. Arch Systems’ principal place of business is located at 1800 Washington Boulevard, Suite 421, Baltimore, Maryland 21230

6. The Defendant is the United States of America, acting by and through the United States Department of Homeland Security, Customs and Border Protection.

SUMMARY OF PROTEST GROUNDS

7. Arch Systems is challenging the Agency’s unreasonable decision (a) not to evaluate Arch Systems’ quote due to a technical error caused by the Government’s eBuy portal;

and (b) not to award Arch Systems a Blanket Purchase Agreement (“BPA”) for Professional Services in response to the Solicitation.

8. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1491(b), as this case arises out of the Agency’s decision, which was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law, to award the BPA to Awardees and not to Arch Systems.

9. This case involves a protest of the award of a BPA for Professional Services by the Agency.

10. Arch Systems is an “interested party” in that it is an actual offeror in response to the RFQ.

11. Arch Systems has been prejudiced by the Agency’s arbitrary and capricious actions, abuse of discretion, violations of the law, and other errors described below because, but for such errors, Arch Systems had a substantial likelihood of being awarded a BPA under the RFQ.

12. Arch Systems has a substantial chance of being awarded a BPA under the RFQ if it is granted the relief requested in this bid protest action.

13. Specifically, had the Agency conducted a reasonable evaluation of Arch Systems’ quote, it would have been rated as one of the “highest technically rated quotations with fair and reasonable pricing” and would have received award under the terms of the RFQ.

BACKGROUND

A. The RFQ

14. The Agency issued the RFQ on January 20, 2023 as a small business set-aside to General Services Administration (“GSA”) MAS Contract holders under Special Item Number

(“SIN”) 54151S for IT Professional Services. RFQ at 5.¹

15. The RFQ sought vendors who could “provide CBP-wide support in a wide range of enterprise business management support services and business disciplines.” Id.

16. Using the single RFQ, the Agency intended to establish two separate multiple award BPAs; relevant to this protest, one of those BPAs was for Professional Services (referred to as “PS” or “Track 1”). Id.

17. Although the Agency issued only one RFQ, it included separate sets of attachments for Track 1 and Track 2. See generally id.

18. Quotes were due on April 20, 2023 at 12:00 p.m. EDT. Id. at 63.

19. All quotes were required to be submitted through the GSA eBuy system. Id.

20. According to the RFQ, “[q]uations received after the specified due date and time will not be accepted unless the Government determines that it is in its best interest to do so.” Id. at 62.

21. The RFQ instructed vendors to submit quotes in three volumes: Volume I, Volume II, and Volume III. Id. at 63.

22. Relevant to this protest, Volume II was to contain three sections.

23. The first section was to include the vendor’s Self-Scoring and Document Verification Worksheet, i.e., the “Self-Scoring Worksheet.” Id. at 62. The document was to be submitted as an “Excel worksheet.” Id. (“Quoters shall ensure all elements in the respective volumes have been completed and submitted in the following format: . . . Attachment 1, Self-scoring, and Document Verification Worksheet – Excel worksheet”).” Id.

¹ The Agency issued eight amendments to the RFQ during the course of this procurement. All references to the RFQ herein are to the final amendment, A008, issued on March 27, 2023.

24. The second section related to a vendor's Recent and Relevant Experience Projects ("RREP"). Id. at 63-64.

25. The third section consisted of the vendor's Contractor Performance Assessment Reporting System ("CPARS") or Contractor Performance Report ("CPR") past performance reports. Id. at 64.

26. The Self-Scoring Worksheet contained rows listing required and optional items vendors were to submit along with other relevant information. See Self-Scoring Worksheet. The maximum self-score available was 11,550. Id.

27. Volume II, Section 2 required vendors to submit two RREPs per task identified in the Scope of Work ("SOW") relating to the BPA that vendor was pursuing. Id. at 62.

28. The RFQ explained further that "[o]ne (1) RREP must address a single task area and only one (1) task area" and the RREP must be "relevant to the scope and complexity of [Emerging Small Business] tasks and be recent occurring within the last three (3) years from the date of the RFQ (December 21, 2022)." Id. at 62-63.

29. Pursuant to the RFQ, of the two required RREPs, "[a] minimum of one (1) RREP must be submitted by the Prime Contractor in each task area." Id. at 62.

30. Along with this requirement, the RFQ instructed vendors that RREPs had to have a minimum value of at least \$1 million and "[n]o RREP's will be accepted with a value below \$1M." Id. at 62.

31. Vendors were to "use their RREPs to self-score Section 2 of [the Self-Scoring Worksheet]" and tally their RREPs into four categories based on whether the project had a value equal to or greater than \$1 million, but less than or equal to \$10 million; a value greater than \$10 million, but less than or equal to \$20 million; a value greater than \$20 million, but less than or

equal to \$30 million; and a value greater than \$30 million. Id.

32. The RFQ established that “Quoters shall be required to ensure all sections of the [three] Volumes have been completed, are clearly labeled, and submitted” Id. at 62.

33. To evaluate quotes, the RFQ advised vendors that “[t]he self-scored scorecard methodology approach will be utilized for this procurement.” Id. at 65. This methodology involved the Agency reviewing the vendors’ self-scores and compiling “a ranking of quotes by reviewing the quotations for compliance, accuracy, and completion of all required areas to select the technically highest rated submissions.” Id.

34. Quoters were further informed that their self-scores could remain the same or decrease as a result of the Agency’s review. Id.

35. Once the evaluation was complete, the Agency intended to make up to eight (8) awards to “the highest technically rated quotations with fair and reasonable pricing.” Id. at 64.

B. Arch Systems’ Quote Submission, Notification of Unsuccessful Quote, and Brief Explanation of Award

36. After reviewing the RFQ, Arch Systems prepared its quote in accordance with the RFQ’s instructions. Once it had compiled its quote, Arch Systems prepared the Self-Scoring Worksheet with a resulting score of 11,450, just below the maximum number of points available. Exhibit A – Arch Systems’ Self-Scoring Worksheet.

37. Once completed, Arch Systems timely submitted its quote through the GSA eBuy system at 11:55 a.m. EDT on April 20, 2023. Figure 1, below, evidences Arch Systems’ timely submission of its quote.

Figure 1:



38. On September 1, 2023, the Agency sent Arch Systems a Notification of Unsuccessful Quote (“Notice”). Exhibit B – Notice.

39. The Agency informed Arch Systems it had not been selected for the PS BPA. Id. The Notice also identified the following seven vendors selected for award: Zantech IT Services Inc.; Savvee Consulting Inc.; Flatter, Inc.; Dignari, LLC; Cybermedia Technologies Inc. d/b/a CTEC; Chevo Consulting; and Catalina Solutions LLC (collectively, the “Awardees”). Id.

40. Arch Systems timely requested a brief explanation of the award decision.

41. On September 9, 2023, the Agency provided Arch Systems with its requested brief explanation of award (“Brief Explanation”). Exhibit C.

42. The Agency stated:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Id.

C. Arch Systems' Investigation and Testing of the Agency's Claim of Document Inaccessibility

43. Arch Systems was shocked to learn that its quote had not been evaluated and that the Agency was contending that its Self-Scoring Worksheet was inaccessible.

44. Indeed, the Brief Explanation was the first Arch Systems learned that a document in its quote was allegedly inaccessible; no prior notice was provided by the Government.

45. When Arch Systems submitted its Self-Scoring Worksheet to the GSA eBuy portal, the document (a Microsoft Excel spreadsheet, just as the RFQ required) was complete and fully accessible. In fact, the same file uploaded to the eBuy portal remains seamlessly and fully accessible in Microsoft Excel outside the eBuy portal.

46. Accordingly, Arch Systems conducted an investigation to determine the basis for the Agency's position that the Self-Scoring Worksheet was inaccessible.

47. During its investigation, Arch Systems conducted tests on the GSA eBuy portal, its internal IT systems, and the specific Self-Scoring Worksheet file that it submitted to the Agency.

48. Arch Systems' findings confirmed that its internal IT systems and its Self-Scoring Worksheet file were error-free and not the cause of any inaccessibility issues. Arch Systems performed extensive testing on its local systems as well as the Excel file in question. It was repeatedly and consistently verified that the Excel file submitted functions properly. Arch Systems also audited its internal systems to determine if any error in keyboard layouts led to unconventional key mapping or encoding discrepancies. None were identified. Simply put, there is no evidence of any file corruption or coding or program error on Arch Systems' end.

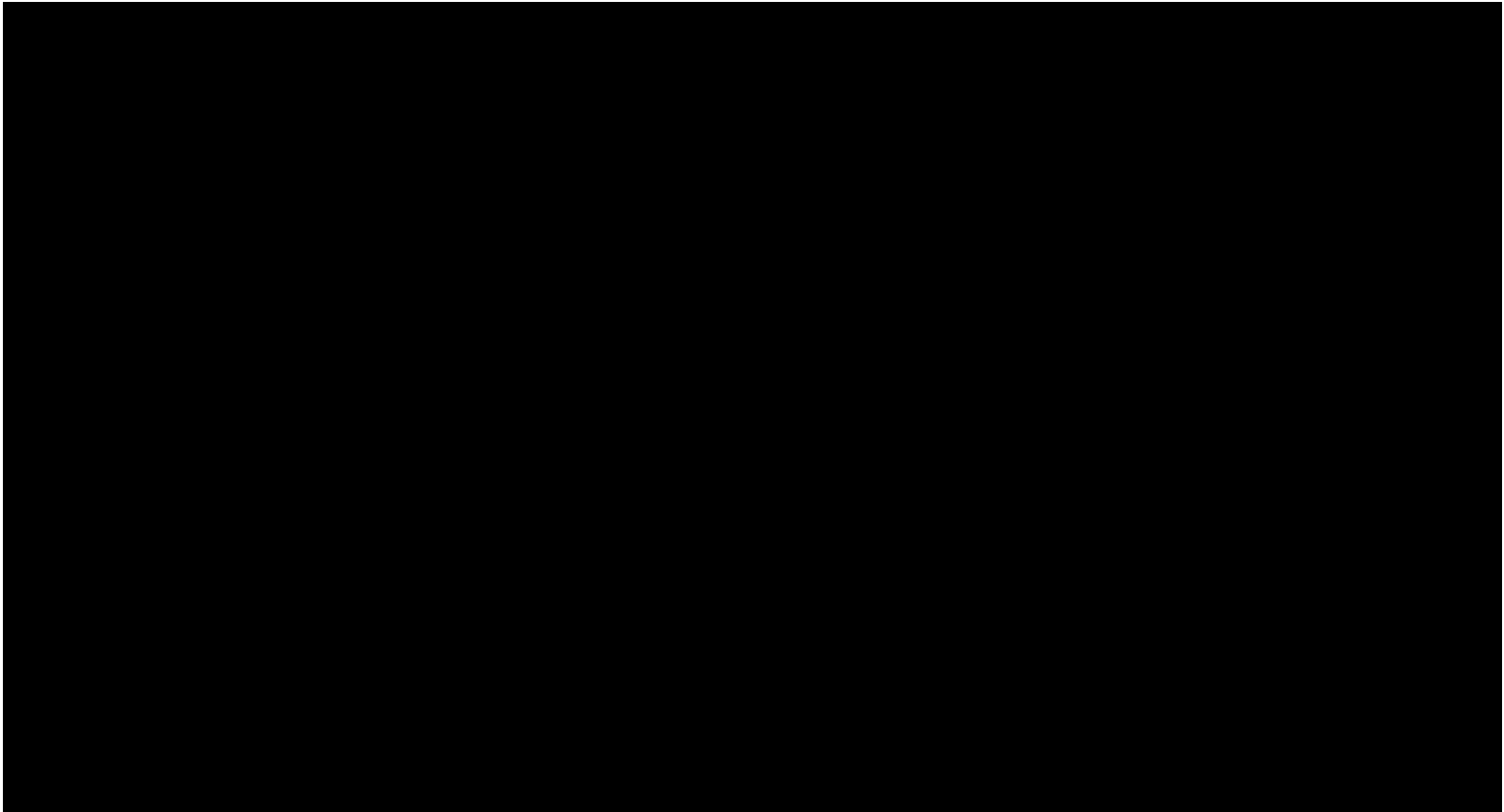
49. However, there is a programming error or encoding anomaly within the GSA eBuy portal. Due to a then-unknown system flaw, the GSA eBuy portal inadvertently added a

special character – Â – to the Self-Scoring Worksheet file after submission, rendering it inaccessible. Arch Systems’ investigation reveals that the GSA eBuy system is inadvertently reading the term “Self Scoring” as HTML code within the GSA portal. This HTML interpretation triggers the insertion of the special character, Â.

50. The special character cannot be produced by a standard keyboard to utilize in a file name; thus, it could not have been an error on Arch Systems’ part.

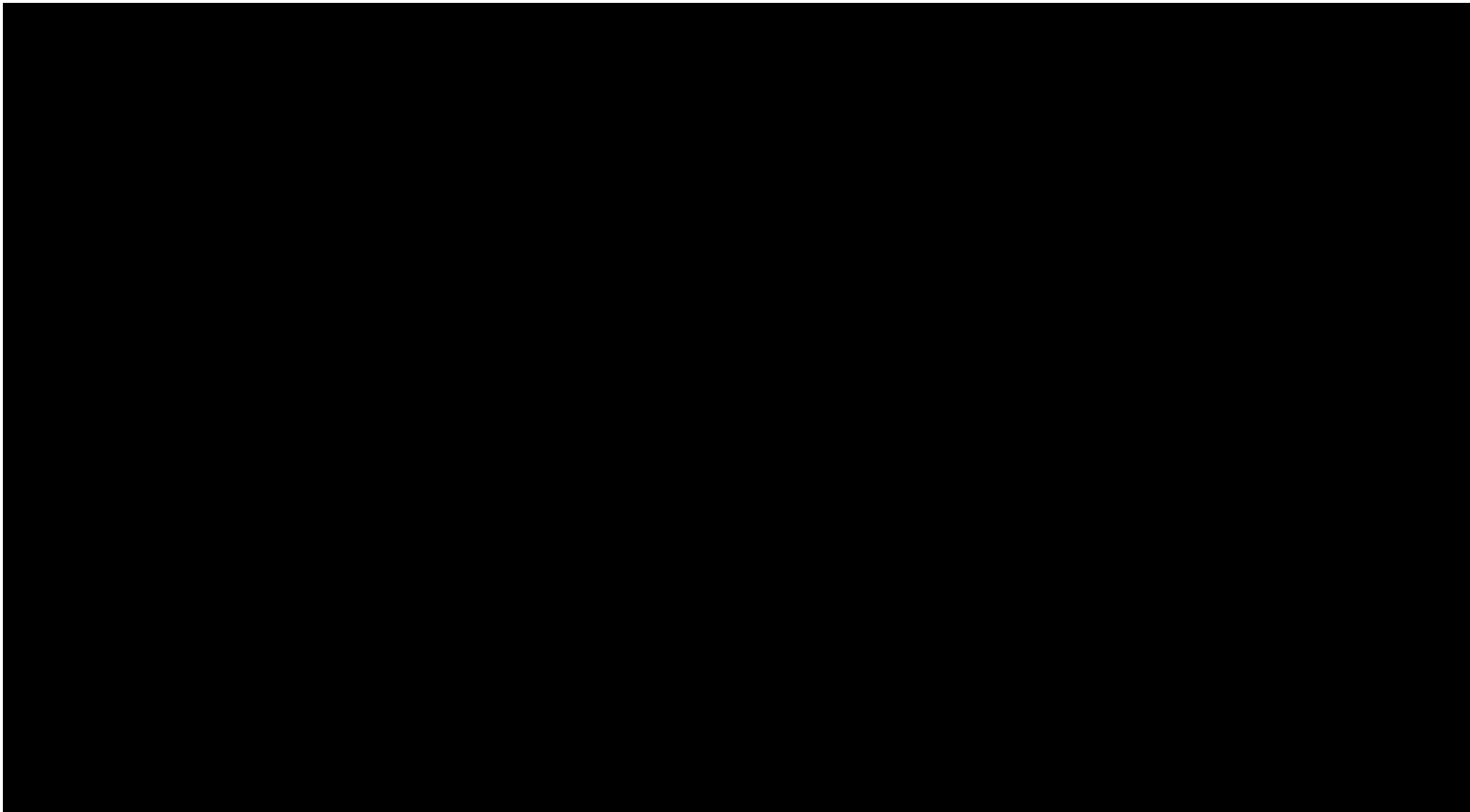
51. The below screen capture, Figure 2, shows Arch Systems’ view at the time of uploading the Self-Scoring Worksheet.

Figure 2:



52. As evidenced by the screen capture, no special characters and no errors are shown at the time of document upload. However, after submission, the portal shows an incorrect file name with the improper Â special character, as shown in the following screen capture, Figure 3.

Figure 3:



53. The portal did not produce any error messages to alert Arch Systems of the Agency's error and system flaw at the time of submission, nor was it apparent at the time of submission that the file would be inaccessible. Arch Systems only discovered the error after it received the Brief Explanation and conducted its independent investigation.

54. In sum, Arch Systems' Self-Scoring Worksheet was accessible at the moment it was submitted to the GSA eBuy portal. Only after the document was in the Agency's exclusive control did the document become inaccessible as a result of the Government's error in the eBuy portal.

55. Upon learning of the Agency's reasons for not evaluating Arch Systems' quote, Arch Systems immediately provided a copy of the Excel version of the Self-Scoring Worksheet to the contracting officer by e-mail. Exhibit D – E-mail From Vini Ehsan to Nicholas Martinelli,

Sept. 9, 2023.

56. The Agency has not taken any action to correct its error or consider Arch Systems' quote.

D. GAO Protest

57. On September 11, 2023, Arch Systems filed a protest at the United States Government Accountability Office ("GAO"), Protest No. B-421957.6.

58. On September 21, 2023, the Agency notified GAO of the pendency of a protest in this Court related to the same procurement, *Ekagra Partners, LLC v. United States*, Case No. 1:23-cv-1610, filed September 19, 2023.

59. Under GAO regulations, Arch Systems' GAO protest will be dismissed as a result. 4 C.F.R. § 21.11(b).

E. PREJUDICE TO ARCH SYSTEMS

60. Here, the Agency's unreasonable non-evaluation of Arch Systems' quote prevented Arch Systems from receiving one of the multiple awards issued by the Agency. Arch Systems' Self-Scoring Worksheet showed a total score of [REDACTED]. RFQ at 61-64; Exhibit A.

61. The Agency awarded the BPA to seven offerors, one fewer award than the Government indicated it may allocate. *Id.* at 64. Thus, the Agency had additional awards to allocate to [REDACTED]

62. Had the Agency performed its evaluation in accordance with the stated evaluation criteria, and in a reasonable manner, Arch Systems [REDACTED] likely would have been a Track 1 BPA awardee.

COUNT I

***The Agency's Decision that Arch Systems' Quote was Non-Responsive
was Arbitrary, Capricious, Contrary to Law, and an Abuse of Discretion
Because Arch Systems' Quote Was Compliant with the RFQ***

63. Arch Systems incorporates by reference the allegations in Paragraphs 1 through 62 of this Complaint as if fully set forth and restated herein.

64. In the Brief Explanation, the Agency noted that Arch Systems' quote was deemed

[REDACTED]

[REDACTED] Exhibit C.

65. "A bid is responsive when it 'represents an unequivocal offer to provide requested supplies or services'" Davis/HRGM Joint Venture v. United States, 50 Fed. Cl. 539, 547 (2001); Peterson Accounting--CPA Practice, B-257411 (Sept. 21, 1994) ("To be responsive, a bid must represent an unequivocal offer to provide the exact thing called for in the [RFQ] such that acceptance of the bid will bind the contractor in accordance with the [RFQ's] material terms and conditions.").

66. "Only where a bidder provides information with its bid that reduces, limits, or modifies a solicitation requirement may the bid be rejected as nonresponsive." Peterson Accounting--CPA Practice, B-257411 (Sept. 21, 1994) (citing Braswell Servs. Grp., Inc., B-248336 (Aug. 19, 1992)).

67. Where an offeror submits a bid "without taking any exceptions to the solicitation," and "offer[s] to perform the work in conformance with all the terms and conditions of the solicitation[,] . . . its bid [is] responsive." Id. (citing Luther Constr. Co. Inc., B-241719 (Jan. 28, 1991)).

68. [REDACTED]

[REDACTED]

69. [REDACTED]

[REDACTED]

[REDACTED]

70. The RFQ required the submission of an Excel worksheet for the Self-Scoring Worksheet.

71. Arch Systems did just that; it submitted an Excel worksheet representing its Self-Scoring Spreadsheet. See supra Figure 3 (showing that the Self-Scoring Spreadsheet was submitted in .xlsx format).

72. The fact that Arch Systems supplied an Excel worksheet was information readily available to the Agency at the time of review. See Contingency Mgmt. Grp., LLC, B-309752 (Oct. 5, 2007) (agency cannot “altogether overlook[]” pertinent information in a proposal).

73. For the foregoing reasons, Arch Systems’ submission was compliant with and responsive to the RFQ, and it was arbitrary, capricious contrary to law, and an abuse of discretion for the Agency to find the quote non-responsive and refuse to evaluate or review it.

74. Had the Agency properly evaluated Arch Systems’ proposal, it would have rated Arch Systems as one of the “highest technically rated quotations with fair and reasonable pricing” and Arch Systems would have received award under the terms of the RFQ.

COUNT II

***The Agency's Decision that Arch Systems' Quote was Non-Responsive
was Arbitrary, Capricious, Contrary to Law, and an Abuse of Discretion
Because the Alleged Inability to Access Arch Systems' Self-Scoring Worksheet
Was Due to Improper Government Action and/or Systemic Failure
While the Document Was in the Agency's Control***

75. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 74 of this Complaint as if fully set forth and restated herein.

76. It also was unreasonable for the Agency to reject Arch Systems' quote because the inaccessibility of the Self-Scoring Worksheet was due to improper government action which occurred at a time when the quote was solely and exclusively under the Agency's control.

77. Under the improper government action doctrine, a non-compliant or late quote should be considered "if it is shown that the paramount cause" for the non-compliance or lateness "is due to some improper government action." Olympia USA Inc., B-215139 (May 21, 1984) (citing Moore's Cafeteria Servs., Inc., B-205943 (Jan. 12, 1982)).

78. Although the improper government action doctrine usually arises in circumstances where a quote has been delivered after the deadline for submission of quotes, the doctrine should be applied equally where the quote submission is non-compliant for other technical, non-substantive alleged violations of an RFQ's terms. See Alden Elecs., B-227940 (Sept. 21, 1987) ("improper government action" is government "action making it impossible for the offeror to deliver its proposal . . ."); see also Vikonics, Inc., B-222423 (Apr. 29, 1986) ("Improper government action . . . is defined as affirmative action that makes it impossible for the offeror to deliver its proposal . . ."); Castle-Rose, Inc. v. United States, 99 Fed. Cl. 517, 528 (2011).

79. The improper government action doctrine applies where the government's action

“was the paramount cause for the [submission of a non-compliant quote] and consideration of the [quote] would not compromise the integrity of the competitive procurement process.” Alden Elecs., B-227940 (Sept. 21, 1987) (citing Carolina Archaeological Servs., B-224818 (Dec. 9, 1986); Vikonics, Inc., B-222423 (Apr. 29, 1986)); see also Castle-Rose, 99 Fed. Cl. at 528 (same).

80. In considering whether that standard has been satisfied, the Court considers whether “the offeror or its agent contributed significantly to the late [or non-compliant proposal] . . . by not acting reasonably in fulfilling its responsibility” to deliver a complete, timely proposal. Castel-Rose, 99 Fed. Cl. at 528; see also Vikonics, Inc., B-222423 (Apr. 29, 1986) (same) (citing Monthei Mechanical, Inc.--Recon., B-216624.2 (Feb. 11, 1985)).

81. Offerors are also afforded relief where there is a systemic failure in the agency’s procedures.

82. The Agency has an affirmative obligation to have procedures in place to reasonably safeguard proposals or quotations actually received and to give them fair consideration. Fed. Acquisition Servs. Team, LLC v. United States, 124 Fed. Cl. 690, 707 (2016) (citations omitted).

83. The Agency did not meet its affirmative obligation to have procedures in place to reasonably safeguard proposals, including, specifically Arch Systems’ Self-Scoring Worksheet.

84. There is a programming error or encoding anomaly within the GSA eBuy portal. Due to a then-unknown system flaw, the GSA eBuy portal inadvertently added a special character – Â – to Arch Systems’ Self-Scoring Worksheet file after submission, rendering it inaccessible.

85. Specifically, Arch Systems’ investigation reveals that the GSA eBuy system is

inadvertently reading the term “Self Scoring” as HTML code within the GSA portal. This HTML interpretation triggers the insertion of the special character, Â, and renders the document unreadable.

86. The special character cannot be produced by a standard keyboard to utilize in a file name; thus, it could not have been an error on Arch Systems’ part.

87. On information and belief, this system error affected one or more other offerors as well, because the error was associated with Agency-provided documents and systems.

88. [REDACTED]

[REDACTED] See Figure 1, Figure 3. After submission, i.e., after the quote had left Arch Systems’ control and entered the Government’s sole and exclusive control, a coding error in the GSA eBuy system improperly converted the Self-Scoring Worksheet into an inaccessible document (albeit still an Excel worksheet) by inserting a special character into the file name.

89. Arch Systems did not—and could not—make that change. Nor could it be aware of the error or that the document would be rendered inaccessible. It was done entirely by the Government’s chosen submission system and errors within that system.

90. Arch Systems’ complete quote, with an accessible Self-Scoring Worksheet (in Excel format, in compliance with the RFQ), was in the Government’s control before the submission deadline. The GSA E-Buy portal cannot convert a document until after it has been submitted by the offeror; the document must change hands from the offeror to the Government before conversion can take place. Although the conversion occurs almost instantaneously after submission, nevertheless, the Government must take control over the document in order to convert it to an inaccessible file.

91. Thus, Arch Systems' [REDACTED] was under the Government's control prior to the deadline for submission of quotes, and Arch Systems' did not contribute to the Agency's inability to access the Self-Scoring worksheet.

92. For the foregoing reasons, the Government's affirmative conduct and systemic failures were the exclusive and paramount causes for Arch Systems' Self-Scoring Worksheet being inaccessible.

93. The Agency's consideration of Arch Systems' quote would not compromise the integrity of the competitive procurement process. Rather, it would cure an inequity in the procurement process for the Agency to consider Arch Systems' Self-Scoring Worksheet and entire quote.

94. For the foregoing reasons, Arch Systems' submission was compliant with and responsive to the RFQ. It was arbitrary, capricious, contrary to law, and an abuse of discretion for the Agency to find the quote non-responsive and refuse to evaluate or review it given that the alleged inaccessibility of the document was due to improper government action and systemic failures.

95. Had the Agency properly evaluated Arch Systems' proposal, it would have rated Arch Systems as one of the "highest technically rated quotations with fair and reasonable pricing" and Arch Systems would have received award under the terms of the RFQ.

COUNT III

***The Agency's Decision Not to Engage in Clarifications
With Arch Systems was Arbitrary, Capricious, Contrary to Law,
and an Abuse of Discretion***

96. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 95 of this Complaint as if fully set forth and restated herein.

97. When the Agency discovered that the Excel worksheet Arch Systems submitted in response to the RFQ was inaccessible, the Agency should have engaged in clarifications to remedy the minor irregularity in the quote.

98. Clarifications are employed to “resolve minor or clerical errors.” FAR 15.306(a)(2); Info. Tech. & Applications Corp. v. United States, 316 F.3d 1312, 1321 (Fed. Cir. 2003) (the purposes of clarifications are for “eliminating minor irregularities, informalities, or apparent clerical mistakes in” an offerors’ proposal).

99. Clarifications are not used to materially alter proposals. ManTech Advanced Syst. Int’l, Inc. v. United States, 141 Fed. Cl. 493, 513 (2019).

100. From Arch Systems’ submission in eBuy, the Agency knew that a Self-Scoring Worksheet (in the proper .xlsx format) had been submitted. Exhibit C; Figure 3.

101. However, the GSA eBuy system undoubtedly created an irregularity in the document after submission—unknown to Arch Systems at the time—that rendered the document inaccessible despite being in the correct file format requested by the Agency.

102. The Agency should have requested a replacement version of the document that was not corrupted by the GSA eBuy portal.

103. That request would not require a change to any portion of the quote itself; it would merely correct the conversion error created by the Government.

104. For the foregoing reasons, clarifications were appropriate and reasonable under the circumstances, and the Agency should have utilized them under the circumstances. It was arbitrary, capricious, an abuse of discretion, and contrary to law for the Agency not to engage in clarifications with Arch Systems under the circumstances (including because it was improper government action and systemic failure that caused the inaccessibility of the document).

105. Had the Agency properly evaluated Arch Systems' proposal, it would have rated Arch Systems as one of the "highest technically rated quotations with fair and reasonable pricing" and Arch Systems would have received award under the terms of the RFQ.

PROTECTIVE ORDER

106. A motion for protective order is being filed attendant with this Complaint.

DOCUMENT REQUESTS

107. Arch Systems requests the following specific documents that are relevant to the issues raised in connection with this protest:

- a. Copies of "all relevant documents," as are required to be produced pursuant to COFC Rules, Appendix C, at 21, 22;
- b. All documents related to the Agency's decision [REDACTED]
[REDACTED] These documents are relevant to Arch Systems' protest ground that the Agency [REDACTED]
[REDACTED].
- c. All documents related to the GSA eBuy portal error that converted Arch Systems' Self-Scoring Worksheet into an inaccessible file. These documents are relevant to Arch Systems' protest ground that the Agency engaged in improper government action and/or there was a systemic failure related to the acceptance and evaluation of Arch Systems' quote.
- d. All documents related to any investigation by the Agency into whether the GSA eBuy portal has a coding or other error that converts certain files into inaccessible files. These documents are relevant to Arch Systems' protest ground that the Agency engaged in improper government action and/or there

was a systemic failure related to the acceptance and evaluation of Arch Systems' quote.

- e. All documents related to any other instance in this procurement where a document submitted by any offeror through GSA eBuy in response to the RFQ was deemed or determined to be inaccessible by the Agency. These documents are relevant to Arch Systems' protest ground that the Agency engaged in improper government action and/or there was a systemic failure related to the acceptance and evaluation of Arch Systems' quote.
- f. All Self-Scoring Worksheets submitted by Arch Systems and all awardees. These documents are relevant to Arch Systems' argument that Arch Systems suffered competitive prejudice as a result of the Agency's [REDACTED] [REDACTED].
- g. All price and non-price evaluation documents and reports, including any documents detailing or containing CBP's analysis or evaluation of Arch Systems' quote under all the evaluation criteria, if any. These documents are relevant to Arch Systems' protest ground that the Agency [REDACTED] [REDACTED].
- h. All documents reflecting the Agency's determination [REDACTED] [REDACTED]. These documents are relevant to Arch Systems' protest ground that the Agency [REDACTED] [REDACTED].
- i. All evaluation instructions given to evaluators with the dates on which the instructions were provided to the evaluation teams related in any way to

determining whether quotes are responsive or non-responsive. These documents are relevant to Arch Systems' protest ground that the Agency

[REDACTED].

- j. Written communications, including email, between or among the evaluators and/or the source selection official pertaining to the evaluation and determination of responsiveness of Arch Systems' quote. These documents are relevant to Arch Systems' protest ground that the Agency unreasonably deemed Arch Systems' quote non-responsive.
- k. All clarification and/or discussion items, including evaluation notices, sent by the CBP to offerors or vendors. These documents are relevant to Arch Systems' protest grounds that the Agency engaged in improper government action related to the acceptance and evaluation of Arch Systems' quote and that the Agency should have engaged in clarifications with Arch Systems to resolve the inaccessibility of the Self-Scoring Worksheet.
- l. The rationale for the award determination and supporting analysis or documentation. These documents are relevant to Arch Systems' protest ground challenging the Agency's [REDACTED]
[REDACTED].
- m. All source selection plans, selection guidelines, and evaluation criteria pertaining to the RFQ. These documents are relevant to Arch Systems' protest ground challenging the Agency's [REDACTED]
[REDACTED].

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Arch Systems respectfully requests this Court enter judgment in its favor and grant the following relief:

- A. Enter a declaratory judgment that the Agency's (i) decision that Arch Systems' quote was non-responsive; (ii) decision that Arch Systems' quote would not be evaluated; and (iii) award of BPAs to the Awardees, each were irrational, arbitrary, capricious, an abuse of discretion, and/or otherwise contrary to applicable law and regulations;
- B. Enter an order directing the Agency to review Arch Systems' quote in full and evaluate it in compliance with the RFQ's evaluation criteria;
- C. Enter a permanent injunction enjoining the Agency from proceeding with performance under the BPAs until the Agency has (i) deemed Arch Systems' quote responsive; (ii) reviewed and evaluated Arch Systems' quote in full and in accordance with the RFQ's evaluation criteria; and (ii) issued a new source selection decision;
- D. Award Arch Systems its fees, costs, interest, and expenses incurred in pursuing this protest, as well as its bid and proposal costs; and
- E. Award such other and further relief as the Court may deem just and proper.

Respectfully submitted,

Dated: September 28, 2023

/s/ Matthew E. Feinberg
Matthew E. Feinberg, Esq.
mfeinberg@pilieromazza.com
PILIEROMAZZA PLLC
1001 G Street, NW, Suite 1100
Washington, DC 20001
Tel: (202) 655-4177
Fax: (202) 857-0200

Counsel for Plaintiff, Arch Systems, LLC

Of counsel:

Lauren R. Brier, Esq.

lbrier@pilieromazza.com

Annie Hudgins, Esq.

ahudgins@pilieromazza.com

PILIEROMAZZA PLLC

1001 G Street, NW, Suite 1100

Washington, DC 20001

Tel: (202) 857-1000

Fax: (202) 857-0200