140P4326R0013 – GEWA Replace HVAC Equpment

RFI 60

RFI 60 - We did want to point out a concern we have with RFI #55, based on 23VAC10-210-693. Government contractors in the Virginia State Code:

"H. Real property contracts with government entities. If a contractor contracts with a governmental entity to perform construction or reconstruction with respect to real property, and in connection with this real property contract, agrees to furnish tangible personal property for use in real estate construction, the contractor shall be deemed to have purchased this tangible personal property for use and consumption and shall be liable for the sales and use tax on this tangible personal property."

Typically, when the government makes the purchase direct the sales tax can be exempt, but not when a contractor is making the purchase. This does vary state to state, but with our experience with Government contracting in VA and MD, these states do not honor a tax exemption for us as the contractor.

Our concern lies with the fact that while we understand the Virginia state code, other bidder may not, and they may exclude the required taxes and cause a hardship on the Government post award.

Answer - it's a firm-fixed-price and an offeror's failure to account for any expenses will not cause a hardship on the Government as it will not be justification for a modification.