

**Matter of:** Loral Aeronutronic  
**File:** B-259857.2; B-259858.2  
**Date:** July 5, 1995

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**DIGEST**

1. Protester's contention that agency selection officials could not upgrade the evaluation assessments given by lower level evaluators without a reevaluation of all proposals is denied where the record shows that the selection officials reasonably disagreed with the evaluators about the weight to be accorded certain elements and subfactors in assigning an overall assessment and made their adjustment in a manner consistent with the evaluation scheme in the solicitation.

2. Challenge to adequacy of the cost realism adjustments made to the awardee's proposal to reflect its high risk is denied where the record shows that the agency made a significant upward adjustment to address the high risk nature of the proposal, and none of the protester's assertions raises issues the agency did not consider, or shows that the agency's approach to making these adjustments was unreasonable.

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\*The decision issued July 5, 1995, contained confidential or source selection sensitive information, and was subject to a General Accounting Office protective order. This version of the decision has been redacted. Deletions in text are indicated by "[DELETED]."

3. Cost/technical tradeoff decision in demonstration and validation procurement where agency makes two awards and selects as the second awardee an offeror with a high cost, high risk proposal that, if shown to be feasible, promises significant advances in the weapon system's technology is not objectionable as record shows it is reasonable and consistent with evaluation criteria.

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## DECISION

Loral Aeronutronic protests the award of contracts to Raytheon Company and Hughes Missile Systems Company by the Department of the Navy, Naval Air Systems Command, pursuant to request for proposals (RFP) No. N00019-93-R-0017, issued for the AIM-9X Sidewinder Missile Demonstration/Validation program. Loral argues that the Navy's selection of Raytheon for one of two awards under this RFP was unreasonable because source selection officials upgraded the evaluation of Raytheon's technical proposal without a reevaluation of the proposals, failed to upwardly adjust Raytheon's proposed costs to reflect the high degree of risk associated with that proposal, and performed an irrational cost/technical tradeoff.

We deny the protest.

## BACKGROUND

This procurement is for the demonstration and validation (D&V) phase for the Sidewinder AIM-9X short-range air-to-air missile. The AIM-9X will be a major upgrade to the current AIM-9M missile (in service since 1982) with the most significant improvements in the seeker component--i.e., the device which tracks the intended target. The Navy<sup>1</sup> plans to incorporate an imaging midwave infrared seeker in the AIM-9X version of the missile.

During the D&V phase at issue in this procurement, the Navy anticipates award of up to two contracts to develop competing prototype seekers for the purpose of defining the critical design characteristics and expected capabilities of the next generation of Sidewinder missiles. Upon completion of this contract, the Navy anticipates selecting one of the two offerors' designs for award of an engineering and manufacturing development contract, followed by a production contract, with a possibility of developing a second production source if appropriate.

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<sup>1</sup>The Sidewinder missile is part of a Joint Service Program between the Navy and Air Force; the Navy is responsible for managing the program.

On May 11, 1993, the Navy released the RFP anticipating award of a cost-plus-incentive-fee contract. Section M-2 of the RFP advised that the award(s) would be made to the offeror(s) whose proposals provide the best value to the government. Section M-2 also identified the following evaluation criteria, in descending order of importance: technical; cost; management; and integrated logistics support (ILS). In addition, offerors were advised that the Navy would assess the risk associated with the technical, management, and ILS evaluation factors; and the realism of proposed costs.

Under the evaluation factors of technical, cost, and ILS, the RFP set forth two subfactors each. The subfactors under the technical and cost factors are of particular relevance here. Under the technical factor, the RFP identified seeker technical approach and D&V program as the subfactors, with the first subfactor more important than the second. For the more important seeker technical approach subfactor, the RFP advised that particular emphasis would "be placed on the potential of the offeror's seeker design concept to meet the IRCCM [infrared counter-counter measures], off-boresight, and acquisition range requirements of the [specification]." Thus, each of these categories plus a fourth category, other seeker requirements, were evaluation elements under the seeker technical approach subfactor. For the D&V program subfactor, the RFP identified two evaluation elements: system/subsystem capability, and schedule realism. Under the cost factor, the RFP identified two subfactors with equal weight: seeker design to cost (DTC)--i.e., the unit recurring hardware cost of the 5000th seeker; and D&V contract cost.

By the July 13 closing date, the Navy received proposals from three offerors: Loral, Hughes, and Raytheon. The proposals were reviewed by the source selection evaluation board (SSEB) which rated each factor and subfactor with one of four adjectival ratings: exceptional, satisfactory, marginal, or unsatisfactory. At the conclusion of the technical review, the SSEB presented the results of the evaluation to the source selection advisory council (SSAC). The SSAC concluded that award could not be made on the basis of initial proposals, and included all three offers in the competitive range for the purpose of participating in negotiations.

At the conclusion of written and oral discussions, all three offerors submitted best and final offers (BAFO), which were again evaluated by the SSEB. The SSEB reported the

strengths, weaknesses, and risks of each proposal to the SSAC, as follows:

TECHNICAL RATINGS/RISK <sup>2</sup>			
	<u>Hughes</u>	<u>Raytheon</u>	<u>Loral</u>
Seeker Tech. Approach	S/Medium	E/High	S/Medium
--IRCCM			
--Off-boresight Cap.		[ DELETED ]	
--Acquisition Range			
--Other			
D&V Program	S/Low	S/High	S/Medium
--System/Subsystem			
Capability		[ DELETED ]	
--Schedule Realism			
Overall Technical	S/Medium	S/High	S/Medium

After review and discussion of the SSEB's findings, the SSAC concluded that the risk associated with the Hughes seeker approach was relatively lower than that associated with the Loral approach even though the SSEB assessed both as medium risk under this subfactor of the technical factor. The SSAC therefore changed the risk assessment under the seeker technical approach subfactor from medium to low. This change caused the risk assessment of Hughes under the overall technical factor to change from medium to low.

Similarly, the SSAC disagreed with the SSEB's assessment under the technical evaluation factor that all three offerors were satisfactory. The SSAC viewed the Raytheon proposal as superior to the other two proposals because of Raytheon's exceptional ratings for its proposed [DELETED]. As a result, the SSAC upgraded Raytheon's overall technical rating from satisfactory to exceptional. After the SSAC

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<sup>2</sup>The technical ratings are abbreviated as follows: exceptional (E); satisfactory (S); marginal (M); and unsatisfactory (U). The risk assessments are low, medium, and high.

completed its review of the SSEB materials, the results of the evaluation (with the changed ratings/risk assessments shown in bold) were as follows:

	<u>Hughes</u>	<u>Raytheon</u>	<u>Loral</u>
Evaluated Cost <sup>3</sup>			
D&V	\$23.2M	\$32.6M	\$24.7M
DTC	\$103K	\$122K	\$86K
Technical/Risk	<b>S/Low</b>	<b>E/High</b>	S/Medium
Management/Risk	E/Low	E/Low	S/Low
ILS/Risk	S/Low	S/Low	S/Low

Based on this review, the SSAC first concluded that the Hughes proposal presented the best value to the government. In its proposal evaluation report prepared for the Source Selection Authority (SSA), the SSAC stated that the Hughes

"seeker design not only met all performance requirements but also exceeded [DELETED] requirements and met the [DELETED] requirements. In addition, [its] technical proposal was evaluated by the SSAC to be low risk. Considering the cost criteria, [Hughes] was evaluated as having the lowest projected [D&V] contract cost and the second lowest seeker DTC. Under the management criterion, [Hughes] was evaluated as having an exceptional management proposal."

After recommending award of one contract to Hughes, the SSAC then compared the proposals of Loral and Raytheon to determine the next best value to the government. In essence, the SSAC concluded that Raytheon's exceptional technical proposal--although assessed as high risk, and with higher costs--presented significant technical advantages over Loral's medium risk, lower cost, satisfactory technical proposal. As a result, the SSAC unanimously recommended that the SSA award the second D&V contract to Raytheon.

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<sup>3</sup>Evaluated cost of each offeror's D&V is shown in millions of dollars (M), and is the estimated total realistic cost for this contract. Evaluated cost of seeker DTC is shown in thousands of dollars (K), and as explained above, is defined as the unit recurring hardware cost of the 5000th seeker. The Navy estimated that the 5000th seeker would be purchased some 16 years after award of this contract--the D&V contract here requires offerors to build a seeker prototype within 18 months; followed by several years of Engineering and Manufacturing Development (E&MD); followed by 10 years of production before the 5000th unit is purchased. RFP, Annex E.

In accepting the SSAC's recommendations, the SSA agreed that the Hughes proposal offered "the best value to the [g]overnment based on an integrated assessment of ratings and risk." The SSA also concurred with the recommendation of the SSAC to award the second contract to Raytheon stating that:

"[Raytheon] offers the second best value primarily due to their exceptional technical proposal which offers significantly superior relative seeker performance. The Raytheon proposal exceeds the required thresholds and provides enhancing features which benefit the [g]overnment in all of those technical emphasis areas of the specification which set forth both required and desired values."

The SSA also concluded that the superiority of Raytheon's approach justified the premium involved in Raytheon's higher costs, and concluded that Raytheon's exceptional management rating would "assist in mitigating the higher technical risk of the [Raytheon] proposal." After the Navy awarded contracts to Hughes and Raytheon, Loral filed this protest.

#### UPGRADE OF RAYTHEON'S TECHNICAL PROPOSAL

Loral's challenge to the SSAC's upward adjustment of Raytheon's overall technical rating from satisfactory to exceptional is based on three general contentions: (1) that the upward adjustment was improper because it was done without a reevaluation of Raytheon's proposal; (2) that the adjusted ratings violate the evaluation criteria; and (3) that the SSAC's adjustment impermissibly credited Raytheon for exceeding certain specification terms.

As described above, there were two technical approach subfactors identified in the RFP: seeker technical approach--the most important subfactor; and D&V program. The seeker technical approach subfactor contained separate evaluation elements for IRCCM, off-boresight capability, acquisition range, and other seeker requirements. In evaluating these four elements, the SSEB concluded that for two of the elements--[DELETED]--Raytheon's approach was exceptional but presented high risk. For the remaining two elements--[DELETED]--the SSEB concluded that Raytheon's approach was satisfactory with low and medium risk, respectively. Thus, under the seeker technical approach subfactor the SSEB concluded that Raytheon's proposal was exceptional but presented high risk. In generating Raytheon's overall technical rating, the SSEB combined the exceptional rating for seeker technical approach with the satisfactory rating for the less important D&V program

subfactor and concluded that Raytheon's overall technical approach was satisfactory with high risk.

When the SSEB findings were presented to the SSAC, the record shows that--without reevaluating proposals, and with consideration of the relative strengths and merits of the three offers--the SSAC disagreed with and changed the rating assigned to Raytheon for its overall technical approach from satisfactory to exceptional. The explanation for this adjustment is found in the minutes of the SSAC's consideration of the SSEB's evaluation results, which state that:

"The SSAC also viewed the overall [t]echnical [s]atisfactory rating for [Raytheon] differently than the SSEB because of [Raytheon's] superior design approach which greatly increases [DELETED] Based on the strength of the design and the exceptional ratings given for [DELETED], the SSAC concluded that [Raytheon's] overall technical rating should be [e]xceptional."

Based on this upgrade of Raytheon's technical proposal, the SSA, as explained above, selected Raytheon as offering the second greatest value to the government.<sup>4</sup>

#### SSAC's Change to Ratings Required No Reevaluation

Loral first claims that the SSAC's upgrade of Raytheon's proposal was per se improper without a reevaluation of the proposal, and that the SSAC wrongly considered the relative strengths and merits of the competing proposals. In our view, Loral's contention is based on a flawed understanding of the source selection process and on a misreading of recent case law.

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<sup>4</sup>While we consider below each of Loral's challenges to the SSAC's decision to upgrade Raytheon's proposal, we note that the Navy probably could have reasonably selected Raytheon without the upward adjustment at issue in this protest--suggesting that Loral was not prejudiced by the SSAC's adjustment. During the evaluation Loral did not receive a single exceptional rating on any technical evaluation subfactor or element, while Raytheon's proposal was rated exceptional under the most important technical subfactor and two evaluation elements thereunder. Despite the initial overall assessment that both proposals were satisfactory, these distinctions alone could have supported a Navy decision that Raytheon's proposal offered the second best value in this procurement without the upgrade by the SSAC.

As explained in the source selection plan, each evaluator involved in preparing the SSEB report was required to prepare an individual assessment of the strengths and weaknesses of each offeror's proposal. The plan advised that "evaluators shall not evaluate the relative merits of one proposal as compared to another, but shall reflect an evaluation of the proposals against the requirements of the solicitation." Source Selection Plan at 27. At the conclusion of the evaluation, the SSEB presented its findings to the SSAC.

When the results of an SSEB evaluation are presented to an SSAC, there is no requirement that the SSAC accept the findings of the evaluators, and no bar against assessing the relative merits of competing proposals. We have frequently held that source selection officials in negotiated procurements are not bound by the recommendations or evaluation judgments of lower-level evaluators, even though the working-level evaluators may normally be expected to have the technical expertise required for such evaluations. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325; Calspan Corp., B-258441, Jan. 19, 1995, 95-1 CPD ¶ 28; Benchmark Sec., Inc., B-247655.2, Feb. 4, 1993, 93-1 CPD ¶ 133. In addition, since the SSAC is assessing the evaluated proposals in an advisory capacity for the SSA, the SSAC--like the SSA--may within its discretion disagree with the assessment of the working-level evaluators. See Oklahoma Aerotronics, Inc.--Recon., B-237705.2, Mar. 28, 1990, 90-1 CPD ¶ 337. In fact, source selection officials routinely compare the relative strengths and weaknesses of proposals, as happened here. See TRI-COR Indus., Inc., B-252366.3, Aug. 25, 1993, 93-2 CPD ¶ 137; N W Ayer Inc., B-248654, Sept. 3, 1992, 92-2 CPD ¶ 154. Thus, the technical judgments of selection officials are governed only by the tests of rationality and consistency with the stated evaluation criteria. Calspan Corp., *supra*.

Although Loral accedes to the long-standing precedent in this area, its contention that the SSAC acted improperly here is apparently based on a conclusion that the recent court decision in Latecoere Int'l, Inc. v. Dept. of the Navy, 19 F.3d 1342 (11th Cir. 1994), reduced the discretion accorded to selection officials involved in reviewing evaluations, and barred those officials from disagreeing with the assessments of evaluators without a reevaluation of proposals. In Latecoere, evidence of agency bias against selection of a foreign firm led the court to conclude that such bias had translated into changed ratings for the firm, especially given the dearth of explanation about the reason for the changes in the ratings. Here, there is no evidence that the agency was biased against Loral, and in fact, the SSAC made no change to Raytheon's rating under any individual subfactor or element. Rather, the SSAC simply



disagreed with the SSEB's conclusion that when combining the two technical subfactor ratings of exceptional (seeker technical approach) and satisfactory (D&V program), the overall rating should be satisfactory and not exceptional. Since the SSAC's change is consistent with the RFP's weighting of the seeker technical approach subfactor as more important than the D&V program subfactor, we fail to see how the SSAC acted unreasonably or violated the stated evaluation scheme.<sup>5</sup>

#### Change to Ratings Was Not Otherwise Improper

Loral next argues that the SSAC's adjustment was improper because a score of exceptional for Raytheon's technical proposal is inconsistent with the definition of that term as set forth in the source selection plan.<sup>6</sup>

Loral's argument in this regard ignores the distinction between the evaluation scheme (which was set forth in the RFP), and the source selection plan provided to evaluators as a guideline. Loral does not actually allege a misapplication of evaluation criteria--such as ignoring the fact that the seeker technical approach subfactor is more important than the D&V program subfactor--but contends that the SSAC's upgrade strayed from the ratings definitions in the source selection plan. Allegations of deviations from an agency's source selection plan do not constitute a basis for questioning the validity of an award selection. Rather, source selection plans are internal agency instructions and,

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<sup>5</sup>Almost as an aside, Loral similarly claims that the SSAC could not properly change the risk assessment of Hughes' technical approach from medium to low risk. Although Loral fails to present a full-blown challenge to the SSAC's view of Hughes's proposal, our decision upholding the SSAC's discretion to upgrade Raytheon's proposal also applies to its view of Hughes's proposal. In addition, materials submitted by Loral's own expert--specifically, four case studies analyzing the three proposals across all feasible combinations of the evaluation factors and relative weights--support the Navy's decision to select Hughes. See Supplemental Affidavit of Kevin L. Martin at 5-8.

<sup>6</sup>In this regard, the Navy's source selection plan defined an "exceptional" proposal as follows:

"Proposal exceeds requirements or contains enhancing features which benefit the [g]overnment. Any weakness is minor with no impact."

Source Selection Plan at 28.

as such, do not give outside parties any rights. Young Enters., Inc., B-256851.2, Aug. 11, 1994, 94-2 CPD ¶ 159 at n.4; National Steel & Shipbuilding Co., B-250305.2, Mar. 23, 1993, 93-1 CPD ¶ 260; Burnside-Ott Aviation Training Center, Inc.; Reflectone Training Sys., Inc., B-233113; B-233113.2, Feb. 15, 1989, 89-1 CPD ¶ 158; Robert E. Derecktor of Rhode Island, Inc.; Boston Shipyard Corp., B-211922; B-211922.2, Feb. 2, 1984, 84-1 CPD ¶ 140.

Moreover, Loral fails to show that the evaluation was in any way unreasonable. In its supplemental comments on the agency report, Loral sets forth 28 separate weaknesses identified by the SSEB evaluators. According to Loral, these weaknesses--each of which was presented to the SSAC--should have barred a conclusion that the proposal was exceptional overall. However, the SSEB--not the SSAC--rated Raytheon's approach exceptional under the most important technical subfactor (seeker technical approach), and exceptional under two of the four elements of the seeker technical approach subfactor. In turn, the SSAC's decision about the overall technical rating was based simply on a reweighing of the two subfactors using two considerations: (1) the stated importance of the subfactors as set forth in the RFP; and (2) the SSEB's assessment of Raytheon as exceptional and satisfactory under the two technical subfactors, despite the identified weaknesses. Hence, Loral's challenge fails because the SSAC's adjustments were in no way inconsistent with the assessments of the evaluators, which Loral does not challenge.

#### Evaluation Gave No Improper Extra Credit

The third element of Loral's challenge to the SSAC decision to upgrade Raytheon's proposal is the allegation that the Navy improperly gave credit to Raytheon for exceeding portions of the specifications that the Navy termed "desired values." According to Loral, since the Navy set "desired" values in relatively few areas in the specifications, the Navy, in essence, effectively advised potential offerors that such values were the maximum benefit the Navy would credit in these areas.

The Navy explains that its specification did, in fact, identify both requirements and desired values, but explains that it gave an exceptional rating for exceeding requirements, not for exceeding the desired values, as Loral claims.<sup>7</sup> For example, the Navy explains that the

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<sup>7</sup>Since the specifications at issue in this procurement are highly classified, the Navy and all parties agreed to proceed without reference to classified individual

(continued...)

acquisition range values for the missile--the term "acquisition" as used here means the ability of the missile to successfully acquire its target--included certain desired values depending on the circumstances or environment in which the missile would be operating--e.g., "blue sky" operation versus "cluttered background" operation. The Navy's response that it did not give extra credit for meeting desired values is buttressed by the record. For example, the Navy explains, and the record shows, that Hughes received an exceptional rating under the [DELETED] element of the seeker technical approach subfactor without exceeding--and in some instances without meeting--any of the desired values.

The basis for Loral's complaint appears to be that the Navy's selection documents, in fact, mention that Raytheon's proposal exceeds some of the specification's desired values. For example, in the SSAC's Proposal Analysis Report--in which the SSAC recommends that the SSA select Raytheon's proposal over that of Loral--the SSAC states that Raytheon's proposal "exceeds most seeker performance requirements and exceeds many **desired** acquisition range values in blue sky and background." SSAC Proposal Analysis Report at 3 (emphasis in original).

In our view, there was nothing unreasonable about the Navy's recognition of the many potential benefits in Raytheon's high-tech, albeit high-risk, approach. The very nature of this demonstration/validation effort is to award a contract of limited duration--18 months--during which two offerors attempt to assess and evaluate the feasibility of significant upgrades to the seeker component in this missile. As the Navy explains in its supplemental report,

"[i]t is common sense that if a target can be acquired at a greater distance, i.e., greater Acquisition Range, or if the missile can be fired at a greater angle with respect to the shooter, i.e., greater Off-Boresight Capability, the pilot is provided with a greater chance to prevail in the engagement. This ability to save lives and aircraft is of obvious benefit to the [g]overnment."

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<sup>7</sup>(...continued)

specification requirements. In this instance, all parties agree that the specification includes both minimum requirements and desired values. According to the Navy, since an offeror's proposal could receive an exceptional rating for exceeding minimum requirements, it was not possible to give additional credit for exceeding desired values.

Since Raytheon received its exceptional ratings from the evaluators without regard to its proposed ability to exceed "desired" values, and since the SSAC upgraded Raytheon's proposal based on a weighing of the exceptional and satisfactory technical ratings and subratings, we conclude that the Navy's consideration of these benefits in its selection decision was a reasonable exercise of its discretion in selecting the proposal that offered the greatest value to the government.

#### UNREASONABLE COST REALISM EVALUATION

Loral argues that the Navy's cost realism analysis of Raytheon's proposal was flawed because the Navy failed to consider the risks inherent in the proposal. According to Loral, if the Navy had properly increased Raytheon's proposed costs to account for the significant technical risks in the proposal identified by the evaluators, Raytheon's evaluated costs would have been even higher than the Navy concluded.

Loral's general complaint in this area is that the many technical risks identified by the Navy's evaluators--and, in essence, repeated by Loral's technical expert--should have translated into a larger cost realism adjustment than was made by the Navy. However, Loral does not, and cannot, point to specific numbers to quantify the adjustment it seeks. Rather, Loral asks our Office to overturn an agency selection decision at the first step of testing technology for a significant upgrade to a major weapons system because the agency did not develop a cost for each and every difficulty that might arise during the development of new seeker technology. As such, Loral's arguments simply fail to comprise a valid challenge to the Navy's cost realism decision.

In performing the cost realism analysis here, the Navy made significant upward adjustments to Raytheon's proposed costs. Under the seeker DTC subfactor, the Navy increased Raytheon's costs by [DELETED] percent; under the D&V contract cost subfactor, the Navy increased Raytheon's costs by [DELETED] percent. The resulting evaluated costs of all three offerors is shown below:

	<u>Hughes</u>	<u>Raytheon</u>	<u>Loral</u>
Evaluated Cost			
D&V Contract	\$23.2M	\$32.6M	\$24.7M
Seeker DTC	\$103K	\$122K	\$86K

In its significant adjustments to the two elements of Raytheon's proposed costs, the Navy included upgrades to several estimates and factored in the associated ongoing costs for a [DELETED] slip in the D&V schedule. For the D&V

costs, this slip was an attempt to capture additional costs associated with additional testing that both the Navy and Loral estimate will be required to fully investigate the likelihood of success of the Raytheon proposal.

Loral correctly points out that an offeror's proposed estimated costs are not dispositive in evaluating proposals for the award of a cost reimbursement contract because regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. Federal Acquisition Regulation (FAR) § 15.605(c). Consequently, a cost realism analysis must be performed by the agency to determine the extent to which an offeror's proposed costs represent what the contract should cost, assuming reasonable economy and efficiency. CACI, Inc.-Fed., 64 Comp. Gen. 71 (1984), 84-2 CPD ¶ 542. Our review of an agency's exercise of judgment in this area is limited to determining whether the agency's cost evaluation was reasonably based and not arbitrary. General Research Corp., 70 Comp. Gen. 279 (1991), 91-1 CPD ¶ 183, aff'd, American Management Sys., Inc.; Dept. of the Army--Recon., 70 Comp. Gen. 510 (1991), 91-1 CPD ¶ 492; Grey Advertising, Inc., supra.

Our review of Loral's arguments and the evaluation record leads us to conclude that the Navy has made a reasonable attempt to evaluate the technical merits, costs, and risks associated with these proposals. To the extent that Loral argues that some of the facets of risk will have cost repercussions, there is no doubt that Loral is correct. However, the Navy here already made a significant upward cost adjustment to Raytheon's proposed costs--[DELETED] percent for seeker DTC costs and [DELETED] percent for D&V costs--specifically because it was concerned that the high risk nature of Raytheon's proposed approach would result in schedule slippage and other increased costs.

Moreover, we find little compelling about Loral's specific contentions. As an example, Loral's technical expert argues that Raytheon's [DELETED] for its seeker component with its [DELETED] has an [DELETED] design with an unproven capability to [DELETED].<sup>8</sup> According to Loral, this potential problem with the [DELETED] should have been reflected in the cost realism adjustment.

The Navy agrees with the assessment of risk, but responds that it need not add costs for this problem since the D&V effort contemplated here does not require a fully qualified [DELETED] due to the less severe environment for D&V tests than for working tactical missiles. Thus, although the Navy

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<sup>8</sup>The Navy's evaluators expressed the same concerns in this regard.

explicitly recognized that the risk associated with Raytheon's approach was great, the Navy decided that the kinds of problems envisioned by Loral would not arise during the course of the D&V contract. Given that the Navy recognized the problem, reflected it in its risk assessment but reasonably concluded that there was no need to increase proposed costs at this juncture--as opposed to assessing additional costs to Raytheon on the E&MD contract should this Navy-identified problem remain unresolved at that time--and given that Loral has failed to offer other than mere disagreement with the Navy's assessment, we will not disturb the Navy's conclusion.

Some of Loral's arguments are shown by the record to be factually inaccurate. For example, Loral contends that Raytheon's proposal is high risk in the area of its [DELETED] focal plane array because Raytheon has never had a significant focal plan array production program. However, the record shows that a wholly owned subsidiary of Raytheon is currently producing such [DELETED] focal plane arrays.<sup>9</sup> Similarly, Loral's argument that the Navy should have adjusted Raytheon's D&V costs upward because of a need for development of [DELETED] overlooks the fact that the Navy increased Raytheon's proposed D&V costs for [DELETED] and learning curve factors for [DELETED]. Thus, the record supports the Navy's response that it reasonably assessed Raytheon's proposed costs in this area.

In short, since the Navy has attempted to quantify the additional costs associated with Raytheon's higher-risk approach, and since Loral has failed to show how the Navy could have performed the review more accurately, we have no basis to object to the cost realism evaluation.

#### COST/TECHNICAL TRADEOFF

Loral argues that the Navy unreasonably selected Raytheon as the offeror whose proposal was second most advantageous to the government, after the proposal of Hughes. Instead, Loral contends that its proposal was more advantageous to the government than Raytheon's proposal.

The essence of Loral's challenge here is that after the Navy (inferentially) concluded that the higher-rated Raytheon proposal was not worth the additional cost and risk when

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<sup>9</sup>Loral's reply in its final comments that the focal plane array produced by Raytheon's subsidiary will need much testing, retesting and redesign does not rise above the level of disagreement with the Navy's assessment that the design is high risk, but need not be reflected in an adjustment to the proposed costs.

compared to the lower-cost, lower-risk Hughes proposal, the Navy could not then rationally conclude in its second award decision that the benefits of the Raytheon proposal outweighed a proposal with even lower costs than Hughes's.

We find no merit to this argument. First, we note that Loral's claim<sup>10</sup> that it submitted the low-cost offer is not supported by the record. There were two subfactors of equal weight under the cost factor here. Under the D&V contract subfactor, Loral was the second low-cost offeror, after Hughes; under the seeker DTC subfactor, Loral was the offeror with the lowest cost.<sup>11</sup> Thus, the premise of Loral's argument--that the Navy could not reasonably select Raytheon after first selecting Hughes because Loral has even lower costs than Hughes--is wrong. Loral has lower costs on one of the two subfactors, not both. Second, Loral's argument is apparently based on a conclusion that the Hughes and Loral proposals presented equal risk: they did not. When choosing between Loral and Raytheon the Navy was faced with proposals that offered medium and high risks, respectively.

A more precise recap of the record shows that after the Navy selected Hughes's satisfactory, low-risk, lowest D&V evaluated cost proposal as the offer most advantageous to the government, the SSA considered selection of Loral versus Raytheon for the second award. In considering this selection decision, the SSA weighed the benefits of Loral's satisfactory, medium-risk, lowest seeker DTC evaluated cost (and second lowest D&V evaluated cost) against Raytheon's exceptional, but high-risk and highest evaluated cost (on both cost subfactors) and concluded that the Navy would balance the selection of Hughes's low-risk approach with Raytheon's exceptional, high-risk approach.

In a negotiated procurement, the government is not required to make award to the firm offering the lowest cost unless the RFP specified that cost will be the determinative factor. Antenna Prods. Corp., 69 Comp. Gen. 182 (1990), Jan. 22, 1990, 90-1 CPD ¶ 82. As explained above, the RFP here clearly stated that technical merit would be more

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<sup>10</sup>Loral's supplemental comments state that Loral "unquestionably was by far the low cost offeror," and that "it is clear that Loral was evaluated by the Navy as offering substantially lower costs than Raytheon or Hughes." Supplemental Comments at 43, 48.

<sup>11</sup>Although the RFP accorded equal weight to the two subfactors, we note that the D&V contract is the only contract awarded by this procurement, and Loral was not the low-cost offeror.

important than cost. In such cases where an agency chooses between a higher-cost, higher-rated proposal and a lower-cost, lower-rated proposal, our review is limited to a determination of whether the cost/technical tradeoff is reasonable and consistent with the solicitation's evaluation criteria. Grey Advertising, Inc., supra; SDA Inc., B-248528.2, Apr. 14, 1993, 93-1 CPD ¶ 320.

The basis for this selection decision here is set forth in two documents: the SSAC's recommendations to the SSA; and the SSA's memorandum to the record describing the selection decision. Our review of the record shows that the Navy adequately considered and documented its selection of Hughes and Raytheon over Loral. In essence, the Navy decided that given the difference in potential advances in seeker technology if the Raytheon proposal is workable, selecting Raytheon's higher-risk approach for this limited duration D&V contract to see if the risks could be reduced sufficiently, while at the same time selecting Hughes in case the risks could not be reduced, was a sound, commonsense approach to selecting awardees for the D&V effort here. Since this conclusion is consistent with the evaluation scheme set forth in the RFP, there is no basis for finding that the conclusion is unreasonable. Information Sys. Networks, Inc., B-254384.3, Jan. 21, 1994, 94-1 CPD ¶ 27.

The protest is denied.

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General Counsel