



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Triad Technologies

File: B-262245; B-262245.2

Date: November 22, 1995

J. Joseph Christie, Ph.D. for the protester.

Bruce P. Windesheim for All-Bann Enterprises, Inc., an interested party.

Craig E. Hodge, Esq., and Phillip B. Hunter, Esq., Department of the Army, for the agency.

C. Douglas McArthur, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where record shows that agency reasonably evaluated proposals, there is no basis to object to agency's selection of technically superior, lower-cost offer.

DECISION

Triad Technologies protests the award of a contract to All-Bann Enterprises, Inc. under request for proposals (RFP) No. DAAM01-95-R-0010, issued by the U.S. Army Chemical and Biological Defense Command (CBDCOM), for the development of a reliable manufacturing procedure for DS2P, which the agency intends as a replacement for DS2, the standard decontaminant for the U.S. Army. Triad argues that the agency's selection decision was contrary to the terms of the solicitation, which provided that technical, management, and quality assurance factors would be significantly more important than cost.

We deny the protest in part and dismiss it in part.

Triad contends that its proposal presented the best value to the government and that the selection of All-Bann was inconsistent with the factors listed in the solicitation. Triad argues that All-Bann has no experience with chemical formulation technology and that Triad's superiority in this area was indicated by its ability to identify several errors in the RFP. Triad also alleges that the selection decision was made on cost rather than technical grounds, contrary to the solicitation's emphasis on technical factors.

The record contains no support for Triad's contention that its proposal presented the best value to the government in accordance with the factors listed in the solicitation. In response to the Triad's assertion that All-Bann has no experience

with chemical formulation technology, the awardee has provided our Office with evidence that its wholly owned subsidiary, DalDen Corporation, has extensive experience with chemical formulation technology and specific experience with the formulation, batch mixing, and testing of DS2P. All-Bann also provided this information in its technical proposal, which the agency evaluated. By contrast, the record includes a copy of a letter dated August 2, from CBDCOM to the protester, which contains an extensive list of deficiencies and weaknesses in Triad's proposal. These represent the issues remaining after discussions in all three areas of the protester's proposal—technical, management, and quality assurance. Neither Triad's protests nor its responses to the agency report address the evaluators' determination that its best and final offer contained these deficiencies and weaknesses. While Triad is correct that All-Bann proposed a much lower cost than did Triad, the agency also considered All-Bann's technical proposal, which received a technical score of 93 points out of 100, to be far superior to Triad's, which received 44 points. We have no basis to conclude that the agency's evaluation and selection of All-Bann was either unreasonable or inconsistent with the factors listed in the solicitation. See Advanced Env'tl. Technology Corp., B-259252, Mar. 20, 1995, 95-1 CPD ¶ 149.

The protester's initial proposal, submitted on February 15, 1995, noted two errors in the solicitation, which the agency corrected by amendment. While the protester considers its ability to detect such errors indicative of its technical superiority,¹ the evaluators commented that the protester's technical score would have increased significantly had Triad, in accordance with solicitation instructions, spent more time discussing its approach to problems and accomplishment of the statement of work. The evaluators considered that Triad could have resolved the errors that it found simply by directing a question to the contracting officer prior to the submission of proposals, or merely by mixing a small batch of DS2P on its own, to check its characteristics. The record shows that Triad simply neglected to discuss the greater portion of the required effort in the belief that despite the solicitation instructions, the effort was "too involved, too extensive, and too time-consuming" to be discussed in its technical proposal.

To the extent that Triad argues that the agency failed to respond to several other errors and discrepancies in the solicitation, and neglected Triad's request for an advance payment provision, the protester should have raised such issues at a

¹The solicitation contained no indication that an offeror's ability to detect errors in the RFP would be a factor in the selection.

minimum prior to the time set for receipt of best and final offers.² See 4 C.F.R. § 21.2(a)(1) (1995); Vertiflite, Inc., B-256366, May 12, 1994, 94-1 CPD ¶ 304.

The protest is denied in part and dismissed in part.

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²With respect to the advance payment issue, we note that advance payments are restricted by both statute and regulation, see 31 U.S.C § 3324(a) (1988); Federal Acquisition Regulation § 32.402(b); Advance payment for maintenance of equip., B-219074, July 26, 1985, 85-2 CPD ¶ 97, and agencies have broad discretion, in cases where they are permitted, to decide whether and under what terms a contract should provide for such payments. John L. Holland Enters., B-248200.2, Oct. 9, 1992, 92-2 CPD ¶ 234.