



**Comptroller General  
of the United States**

Washington, D.C. 20548

# Decision

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**Matter of:** EG&G Management Systems, Inc.

**File:** B-270509.2

**Date:** April 1, 1996

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David A. Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. Protest that offerors should have been required to propose to the same assumption with respect to the amount of likely simultaneous test conduct at two radar target test sites is untimely because it challenges an alleged impropriety in the solicitation that should have been protested before the initial closing time for submission of proposals.
2. Protest that agency unreasonably concluded that awardee proposed sufficient staffing to perform required radar target testing is denied where awardee demonstrated a sound understanding of the technical requirements and proposed innovative approaches to reducing manning, including using (1) [DELETED] techniques and [DELETED] analysis (to increase efficiency of operations by reducing [DELETED]), (2) a new computer system (to permit consolidation of staff positions), and (3) extensive cross-utilization of personnel.

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## DECISION

EG&G Management Systems, Inc. protests the Department of the Air Force's award of a contract to Johnson Controls World Services, Inc. under request for proposals (RFP) No. F08635-95-C-0001, for operation and maintenance of the Radar Target Scatter (RATSCAT) facility at Holloman Air Force Base (AFB), New Mexico. EG&G challenges the evaluation of offerors' proposed staffing approaches.

We deny the protest.

## BACKGROUND

The solicitation, issued on May 19, 1995, contemplated award of a cost-plus-award-fee contract for a 3-year base period, with 2 option years, for the operation and maintenance of RATSCAT. RATSCAT's mission is to measure radar signals reflected off actual hardware (e.g., aircraft and missiles) and accurate sub-scale models in order to compute their radar cross-sections and predict how well the targets will be detected by various radar systems. RATSCAT includes two separate test complexes: (1) Mainsite, which is located on isolated alkali flats west of Holloman AFB, and (2) the RATSCAT Advanced Measurement System (RAMS), which is located approximately 40 miles northwest of Mainsite.

As described in the solicitation, the "mission flow" process developed by EG&G, the prior incumbent contractor, in cooperation with the Air Force, generally includes: (1) long-term test planning, provisioning and subsystem readiness; (2) system characterization, during which measurements are taken at the test site in the period before actual testing commences in order to establish the signal image of the background, that is, of the entire test range minus the target, which will later be deducted from signal images recorded during the actual testing in order to determine the images due just to the target; (3) the actual conduct of testing at the test site; and (4) post-test data processing, which requires use of the test range computers, and report generation. Hearing Transcript (Tr.) at 17-44, 51-57, 75-85, 361-381.

Because the targets whose radar signals are to be measured at RATSCAT may have state-of-the-art low-observable, stealth characteristics which are classified, the solicitation's statement of work (SOW) provided that "test operations are normally conducted at night for security purposes," and that therefore it was "imperative to maximize target data collection during hours of darkness." The SOW specifically cautioned that:

"The Contractor shall adjust work schedules to accommodate seasonal changes in dusk to dawn hours . . . . Test programs are distributed over the year at both sites with some simultaneous testing at both sites. Actual testing periods range from two or three days to as long as two months. The projected test schedule will require testing for a total of four months per year at Mainsite and eight months per year at RAMS. These test period forecasts include 25% downtime at RAMS and 30% downtime at Mainsite due to weather, security considerations, equipment failures, and evacuations for [White Sands Missile Range] testing. The Contractor shall cross-

utilize test personnel for other contract requirements when tests are not being conducted. Overtime or extended work weeks shall be used when necessary to accommodate the test workload."

Prior to the closing time for receipt of initial proposals, the Air Force issued an amendment to the solicitation which included questions from potential offerors and the agency's answers. One question, noting the SOW reference to "some simultaneous testing at both sites," asked: "[t]o make the playing field level for all offerors, can 'some' be quantified by a percentage of the time number?" The Air Force answered that:

"Testing varies substantially from year to year. It is difficult to predict what portion of the time simultaneous testing at both sites might occur. For FY [Fiscal Year] 95, of 48 weeks of testing, 33 were simultaneous, or approximately 69%. Currently in FY 96, there are 39 weeks scheduled of which 21 are concurrent, or about 54%."

The Air Force received four proposals by the closing time on July 7. All proposals were included in the competitive range. The Air Force questioned both offerors about their staffing approaches during the ensuing discussions. EG&G had been performing under the prior contract with a staff of 93 full time equivalents (FTE). The agency's independent cost estimate, assuming a significant decrease in the workload, was based on a staff of 79 FTEs and a total cost of \$53.1 million. In its initial proposal, EG&G proposed [DELETED] FTEs at a cost of [DELETED] million. During discussions, the Air Force, referring to the SOW requirement that the contractor "utilize sub-contracting, part time employees, cross-utilization and overtime to the maximum extent practicable to minimize the permanent contract workforce," observed that while EG&G proposed developing multi-skilled employees, cross-utilization and multi-tasking, it was "unclear how multi-skilled individuals would be used across diverse skill boundaries to minimize manning in test support, management, supervision and engineering." In addition, the agency asked EG&G to clarify its reference, in explaining its staffing rationale, to a "nominal test configuration with typical data acquisition."

In response, EG&G further explained its approach to cross-utilizing multi-skilled personnel to perform multiple tasks and additional roles beyond their primary area of responsibility. In addition, EG&G explained that its staffing approach was based on certain assumptions, including the assumption of a 60-percent range time overlap between Mainsite and RAMS.

In its initial proposal, Johnson proposed [DELETED] FTEs at a cost of [DELETED] million. Agency evaluators assigned Johnson's proposal a marginal (yellow)

technical rating (as well as a marginal management rating), noting as one weakness that the proposal "[d]oes not adequately discuss 'dusk to dawn' operation and what this means in relation to the hours of operation." During discussions, the Air Force, referencing the SOW requirement for dusk-to-dawn target data acquisition at RAMS and Johnson's proposal of [DELETED] at each site when simultaneous testing is required, asked Johnson: "How will dusk to dawn testing be accomplished during the winter months where the dusk to dawn period exceeds twelve (12) hours?" In response, Johnson explained that it assumed approximately 50 percent simultaneous testing at Mainsite and RAMS, and would [DELETED]; during simultaneous testing, one team would work a dusk-to-dawn shift at each site and the [DELETED] would be available "as 'fill-in' for absences and for shift relief to provide time off for the employees." In addition, Johnson proposed to increase its staffing to [DELETED] FTEs.

At the conclusion of discussions, the Air Force requested best and final offers (BAFO). Although the source selection evaluation team (SSET) evaluated EG&G's BAFO as "technically superior overall," offering the government the "greatest capacity" and the "least risk to ongoing/upcoming operations," the overall technical rating of Johnson's BAFO was the same as EG&G's--acceptable with low risk. Further, EG&G's evaluated cost of [DELETED] million for a total of [DELETED] FTEs was higher than Johnson's evaluated cost of [DELETED] million for a total of [DELETED] FTEs. The source selection authority (SSA) concluded that the "small technical advantage" associated with EG&G's proposal "was clearly outweighed by Johnson Controls' significantly lower cost." Upon learning of the resulting award to Johnson on November 3, EG&G protested to our Office.

#### COMMON BASIS FOR EVALUATION

EG&G argues that Johnson's BAFO was based on an understanding of the solicitation requirements materially different from EG&G's understanding. Specifically, EG&G notes that offerors based their staffing approaches on different assumptions with respect to the amount of simultaneous test conduct.

According to the Air Force, the requirement to perform actual test conduct was crucial in determining the required level of overall staffing. In this regard, the Air Force maintains that activities other than actual test conduct:

". . . do not drive the need for manpower the way test conduct does. Test conduct is a peak load condition for the contractor's manpower. It requires numerous personnel from a variety of skill categories to be present or quickly available. SOW 3.1 also requires that test conduct take place during the full dusk to dawn period. Together these factors mean that test conduct periods require the contractor to deliver a large

number of employee man-hours each night on which testing is conducted. . . . Therefore, the contractor must size its organization to be capable of delivering these man-hours. Test set-up and post-processing are simply not the big drain on man-hours that test conduct is. They are often performed in a much more diffuse way with a much lower level of manpower. . . . Additionally, unlike test conduct, there is no SOW requirement that these activities take place during the dusk to dawn period. . . . Much of this work can be accomplished in standard 8 hour shifts in the daylight hours."

In calculating the period of simultaneous testing at the two RATSCAT sites--and thus the period of greatest demand on staffing resources--EG&G assumed that downtime did not reduce the period of actual test conduct. Tr. at 60-62, 176-177. Applying a factor of 60 percent to determine the period of simultaneous actual test conduct at the two sites, a factor slightly less than midway between the 69 percent factor for FY 1995 and 54 percent factor for FY 96 which were referenced by the agency in its response to the request for clarification of the requirement, EG&G calculated that there would be at least 2.4 months of actual simultaneous test conduct.

In contrast, as originally explained by its proposal manager in response to EG&G's protest, Johnson based its proposal on the assumption of 1.4 months of simultaneous test conduct. Specifically, Johnson calculated this figure by "subtracting from the Mainsite four-month test requirement the 30 percent downtime factor for the Mainsite that was included in [the SOW]. To this 2.8 month figure, [Johnson] applied a factor of 50 percent simultaneous testing to yield an approximate 1.4 months simultaneous testing proposal assumption." (Although the chairman of the SSET testified that the likely downtime would not permit a reduction in time spent on site, he indicated that the panel considered downtime in calculating the amount of simultaneous test conduct as 2 months. Tr. at 255-256, 392-397, 435.)<sup>1</sup> EG&G concludes that offerors were not competing on a common basis and that this discrepancy renders the evaluation invalid. According to the protester, the Air Force should reopen negotiations and clarify its requirements.

In effect, EG&G is arguing that offerors should have been required to propose to the same assumption with respect to the amount of simultaneous test conduct. Our Bid Protest Regulations contain strict rules for the timely submission of protests.

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<sup>1</sup>In its February 15, 1996 submission to our Office, the Air Force reported that it was currently projecting 7 to 8 weeks of simultaneous test conduct for the February to November 1996 time period. The agency emphasized, however, that many scheduled test programs do not occur, or occur later than scheduled. Tr. at 437.

These rules specifically require that a protest based upon alleged improprieties in a solicitation that are apparent at the time of receipt of initial proposals must be filed before that closing time. Section 21.2(a)(1), 60 Fed. Reg. 40,737, 40,740 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.2(a)(1)); Engelhard Corp., B-237824, Mar. 23, 1990, 90-1 CPD ¶ 324. These timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. Air Inc.-Recon., B-238220.2, Jan. 29, 1990, 90-1 CPD ¶ 129.

As discussed, when asked prior to closing time to "make the playing field level" by quantifying the amount of simultaneous testing, the Air Force declined to do so on the ground that: "Testing varies substantially from year to year. It is difficult to predict what portion of the time simultaneous testing at both sites might occur." The agency instead furnished its most recent data on the extent of simultaneous testing in 1995 and as scheduled in 1996. As a result, offerors had the discretion to reach their own conclusions with respect to the amount of simultaneous test conduct when preparing their staffing approaches. To the extent EG&G believed this was an improper basis for proposal preparation and evaluation, it was required to protest this apparent RFP deficiency prior to the closing time for receipt of initial proposals. As it failed to do so, the argument is untimely.

In any case, it is not apparent that the protester was prejudiced by the alleged deficiency. Competitive prejudice is an essential element of every viable protest. Lithos Restoration, Ltd., 71 Comp. Gen. 367 (1992), 92-1 CPD ¶ 379. Where no reasonable possibility of prejudice is shown or is otherwise evident from the record, our Office will not sustain a protest. Colonial Storage Co.-Recon., B-253501.8, May 31, 1994, 94-1 CPD ¶ 335.

During the hearing in this matter, the Air Force presented a spreadsheet summarizing the manning approach in each proposal and allocating each offeror's proposed staff among the various contract functions. (Under the offerors' cross-utilization, each employee performs a number of functions.) Although EG&G has generally claimed that it could have reduced its work force by [DELETED] FTEs had the agency stated that it anticipated that only 2 months of simultaneous testing would be required (the number used in the evaluation), the agency's spreadsheet calculations indicate that only [DELETED] of the [DELETED] additional FTEs proposed by EG&G are accounted for by EG&G's larger test operations staff, the functional work group that would be most directly impacted by changes in peak test workload. (According to the Air Force, EG&G's larger management and administrative staff accounts for another [DELETED] additional personnel, while its larger maintenance staff accounts for its remaining [DELETED] additional FTEs.)

Further, the Air Force asserts, and the record suggests, that not all of the [DELETED] additional FTEs in the test operations area are related to the greater

amount of simultaneous test conduct assumed by EG&G. For example, the Air Force and Johnson, unlike EG&G, assumed that a new Data Acquisition and Processing System (DAPS)--which had been under development by EG&G under the prior contract and was scheduled to become operational during the new contract--would permit the consolidation of a radar technician with a data technician position on each test operations shift, for a savings of three FTEs. In fact, the RFP specifically referenced this consolidation of functions, stating that:

"A new computer subsystem . . . (DAPS), provides common architecture, common software, common hardware and a common operator interface for both [the Integrated Radar Measurement System at Mainsite] and the RAMS radar system, and allows a single operator to acquire and process data. DAPS affords the capability to acquire and process a large volume of data rapidly. All RATSCAT radar systems will eventually have a DAPS."

EG&G argues that a radar technician responsible for reviewing radar signals as they are acquired so as to detect errors cannot simultaneously conduct data processing, suggesting that its proposal included extra personnel for this function among the [DELETED] additional FTEs. Thus, it appears that the potential prejudice to EG&G from the failure to quantify the simultaneous testing requirement is limited to fewer than [DELETED] FTEs.

It is not clear precisely what impact these additional FTEs had on EG&G's proposed cost--EG&G does not quantify the effect based on the positions involved. However, when EG&G's proposed costs are allocated equally over its proposed FTEs, even reducing its test operations staff by all [DELETED] FTEs would reduce its cost only by approximately [DELETED] million, leaving EG&G's cost [DELETED] higher than Johnson's. In addition, as the agency notes, since EG&G's proposal's "small technical advantage" was due at least in part to its greater staffing (for example, the proposal was evaluated as offering the government the "greatest capacity"), that advantage would necessarily diminish as its staffing decreased. Again, we are well aware that these calculations are far from precise; however, in the absence of other evidence or argument from EG&G showing that the calculations are grossly incorrect, we believe they provide a reasonable basis for concluding that prejudice has not been established.

#### JOHNSON'S STAFFING APPROACH

EG&G argues that the agency unreasonably concluded that Johnson proposed sufficient staffing to perform the testing requirements.

In reviewing an evaluation, we consider whether it was in accord with the criteria listed in the solicitation and otherwise was reasonable. Information Sys. & Networks Corp., 69 Comp. Gen. 284 (1990), 90-1 CPD ¶ 203; John Brown U.S. Servs., Inc., B-258158 et al., Dec. 21, 1994, 95-1 CPD ¶ 35.

The Air Force found Johnson's staffing approach as fully developed in its BAFO to be acceptable on the basis of a number of factors, including the increase in Johnson's staffing to [DELETED] FTEs, the addition of better qualified staff, its demonstration of a sound understanding of the technical requirements, and its innovative approaches to reducing manning. For example, the agency found that Johnson had proposed an innovative [DELETED] concept under which it would use [DELETED] techniques and [DELETED] analysis to increase efficiency of operations by reducing [DELETED]. The agency noted that Johnson had proposed extensive cross-utilization of personnel, including both training employees to perform several work functions and cross-utilizing employees between the two test sites. As noted by the agency with respect to the conduct of testing, "[i]f it is known in advance that a certain amount of downtime is likely to occur, prudent management will often allow the contractor to have other, less time-sensitive work available to be accomplished by test support personnel, even though one cannot predict just when the downtime will happen or its exact length. This cross utilization reduces the overall level of needed manpower." (The protester's RATSCAT engineering manager agreed that downtime could be used to perform other work. Tr. at 62, 144.)

In addition, the Air Force accepted Johnson's proposal of a DAPS Specialist job classification combining data acquisition and processing responsibilities with DAPS and radar operation and maintenance responsibilities; by training DAPS Specialists to perform routine radar operation and maintenance tasks, the agency believed that the need for radar technician support would be reduced. As for the system characterization phase which precedes actual test conduct, the agency notes that in contrast to EG&G's view that this phase extends for 1 or more weeks (and that Johnson's proposed staffing is inadequate for this amount of system characterization), another similar test range performs this work in as little as 1 or 2 days. Tr. at 24-36, 79-87, 216-219, 292-294, 364-382. Finally, the agency viewed Johnson's proposal to rotate [DELETED] test support teams between two sites as sufficiently likely to reduce worker fatigue during periods of simultaneous test conduct as to make an overall lower manning level acceptable. Clearly, the agency specifically considered Johnson's ability to perform as required in light of its staffing plan. As indicated, the agency had specific reasons for concluding that the proposed staffing would be adequate--in part, it simply disagreed with EG&G's

assumptions in many regards--and we find that those reasons are logical. Thus, there is no basis for questioning the Air Force's determination that Johnson proposed adequate staffing.<sup>2</sup>

The protest is denied.

Comptroller General  
of the United States

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<sup>2</sup>EG&G's argument here reflects its view that Johnson's staffing is inadequate for the amount of simultaneous testing (2.4 months) EG&G assumed. However, as discussed above, the solicitation did not provide for use of a 2.4 month assumption in proposal preparation and evaluation. As for Johnson's statement, after award and in response to EG&G's protest, that it assumed only 1.4 months of simultaneous test conduct, this is irrelevant to the reasonableness of the evaluation. The agency was not aware of this assumption when evaluating BAFOs; the evaluation was based on the actual organization and staffing in Johnson's BAFO, and the agency found these to be adequate to support 2 months of simultaneous testing.