Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Marion Composites

File: B-274621

Date: December 20, 1996

John B. Denniston, Esq., and Jason A. Levine, Esq., Covington & Burling, for the protester.
Robert S. Ryland, Esq., and Susan K. Fitch, Esq., Kirkland & Ellis, for Gichner Shelter Systems, an intervenor.
Joshua A. Kranzberg, Esq., and Robert A. Russo, Esq., Department of the Army, for the agency.
Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where the solicitation's evaluation scheme provided that the technical evaluation factors were more important than price in determining the proposal representing the best value to the government, agency properly selected the higher technically rated, higher-priced proposal for award after reasonably determining that the proposal was technically superior to the protester's and that the advantages of that proposal warranted the payment of a price premium.

DECISION

Marion Composites protests the award of a contract to Gichner Shelter Systems under request for proposals (RFP) No. DAAB07-96-R-E009, issued by the Department of the Army for a quantity of Standardized Integrated Command Post System-Rigid Wall Shelters, Version 4. Marion challenges the evaluation of its proposal and the agency's price/technical tradeoff.

We deny the protest.

The basic shelter provides the structural framework for the integrated shelter which will house electronic command, control, and communications systems. The basic shelter is a six-sided enclosure, each side of which is made up of aluminum facing panels bonded to a paper honeycomb core. The integrated shelter must contain, at a minimum, workspace for two operators and must support a variety of electronic equipment. The shelter can be set up on the ground or can be mounted on a high mobility multi-purpose wheeled vehicle, transforming the shelter into a mobile command post. The RFP included a Functional Description Document (FUDD)

which described the performance specifications for this version of the shelter. Offerors were also furnished, for reference purposes, technical data drawings for the immediately preceding version of the shelter. Offerors could base their shelter design on the data provided or could propose another technical approach for satisfying the FUDD's performance specifications.

The RFP contemplated the award of a firm, fixed-price contract for 125 shelters, with an option for up to an additional 400 shelters, to the offeror whose proposal represented the best value to the government, technical evaluation factors, performance risk, price, and management evaluation factors considered. Technical evaluation factors and performance risk were considered of equal importance, and individually were considered more important than price. Price was considered significantly more important than management evaluation factors.[1] As relevant to this protest, the RFP stated that the adequacy of an offeror's technical approach would be evaluated to determine the extent to which the offeror addressed and understood the design and production requirements. The RFP also stated that the feasibility of an offeror's technical approach would be evaluated to determine whether the offeror's methods and approach in meeting the design and production requirements would provide the government with a high level of confidence of successful completion within the required schedule. Finally, the RFP advised that the award would not necessarily be made to the low-priced offeror.

Three firms, including Marion and Gichner, submitted initial technical and price proposals which were included in the competitive range. Following discussions, the agency requested each competitive range offeror to submit a best and final offer (BAFO). The final evaluation ratings for Marion and Gichner were as follows:

[1]The evaluators were to assign adjectival ratings to the technical and management evaluation factors (e.g., outstanding--proposal meets or exceeds the requirements of the RFP and offers numerous advantages; good--proposal meets or exceeds the requirements of the RFP and offers some major advantages; and acceptable--proposal meets the minimum requirements of the RFP). In assessing an offeror's performance risk, the evaluators also were to assign adjectival ratings (e.g., high risk--significant doubt exists based on the offeror's past performance; moderate risk--some doubt exists; and low risk--little doubt exists). Adjectival ratings were to be supported by narratives of the strengths, weaknesses, and risks in each offeror's proposal.

	Marion	Gichner
Technical Factors	Acceptable	Outstanding
Performance Risk	Moderate	Low
Management Factors	Acceptable	Good

Marion's price was approximately 34 percent less than Gichner's price.

Marion, whose predecessor corporate entity developed the current shelter design, proposed to use this design, but to modify several shelter components to reduce costs. For example, Marion proposed an aluminum alloy for the shelter's facing panels which was not as strong as the aluminum alloy currently used. Marion also proposed an unidentified commercial grade paper honeycomb core in lieu of the core material currently used. Marion basically stated that if the proposed alternate materials proved to be unacceptable or unavailable, the firm would revert to using the currently tested and proven component materials at no additional cost to the government. Following discussions with Marion which focused on the impact of these and other proposed component modifications on the firm's ability to satisfy the shelter's performance and production requirements, the evaluators concluded that by substituting untested materials for critical shelter components in an effort to reduce costs, Marion's proposed modifications could compromise the shelter's structural, environmental, and transportability requirements and could pose a risk of significant production delays. Accordingly, the evaluators viewed these proposed modifications as major disadvantages in Marion's technical approach. In contrast, Gichner, the incumbent contractor for a production quantity of a previous version of the shelter, proposed the aluminum alloy facing panels and core material used in the current shelter design. Because Gichner, unlike Marion, proposed critical shelter components that were already tested and proven, and as a result, its technical approach did not pose a risk of production delays, the agency determined that Gichner's proposal was technically superior to Marion's proposal and that this technical superiority justified the payment of a price premium to Gichner. The agency awarded a contract to Gichner as the offeror whose proposal represented the best value to the government.

Marion argues that the agency unreasonably downgraded its technical proposal based on its proposed shelter component modifications. Marion, which does not challenge the agency's conduct of discussions, contends that it addressed the agency's concerns about these proposed modifications during discussions and maintains that these features should not have been considered disadvantages in its technical approach.

In reviewing protests against the propriety of an agency's evaluation of proposals, we will examine an agency's evaluation to ensure that it was fair and reasonable and consistent with the evaluation criteria stated in the RFP. Research Analysis and Maintenance, Inc., B-239223, Aug. 10, 1990, 90-2 CPD ¶ 129; Institute of Modern Procedures, Inc., B-236964, Jan. 23, 1990, 90-1 CPD ¶ 93. Based on our review of the record, we conclude that the agency reasonably downgraded Marion's technical approach based on its proposed modifications of critical shelter components.

Although it proposed to construct the shelter in accordance with the current shelter design, Marion proposed to modify several shelter components in order to reduce costs. Two of these components--the aluminum alloy facing panels and the core material--are critical components of the basic shelter which provides the structural framework for the integrated shelter. In its proposal, Marion pointed out that under the current shelter design, the facing sheets for the wall, roof, and floor panels were made of a particular aluminum alloy. Marion proposed to change the alloy for the facing panels, noting an "opportunity for a significant cost reduction" using an aluminum alloy with a "[7] percent lower tensile and lesser ductility," i.e., strength and ability to be bent. Marion noted that "[s]hould further strength analyses during the contractual phase indicate that this reduction is unacceptable, the panel design will revert to the use of [the currently used aluminum alloy] facing sheets." Marion also pointed out that the current shelter design uses a customized paper honeycomb core. Marion proposed a commercial grade core material offered by "[a]t least one vendor" which would provide an opportunity for a cost reduction. Marion "assume[d] a success-based outcome of the [in-house] tests. Should this not be the case, the fall-back position is to continue to use the same core material as in the existing . . . [s]helter."

During discussions, Marion was asked to describe how its proposed shelter panel construction comprised of the alternate aluminum alloy facing sheets and commercial honeycomb core would affect the shelter's ability to meet various transportability and environmental requirements as described in the FUDD. Marion provided a cursory, three sentence response that the shelter's ability to meet these requirements "will not be compromised by the use of the [alternate aluminum alloy] facings and commercial core[,]" explaining that "the shelter design will be modified to use these alternate materials only after detailed engineering evaluations . . . confirm their suitability. Should the engineering evaluations show that either of the options is structurally or functionally inadequate, then the panel designs will revert to currently-used" aluminum alloy panels and core material. Marion was also asked to describe how the "lower tensile and lesser ductility" of the alternate aluminum alloy would affect the shelter's ability to meet various structural, environmental, and transportability requirements. Marion responded by conceding that while the alternate aluminum alloy offers a cost reduction, "the alternate alloy does not quite offer the strength or the ductility of the replaced material. . . . The lower strength of the [alternate aluminum] alloy is a factor which will be resolved by structural

analysis efforts during the early stages of the contract[,] . . . focus[ing] upon the floor panel as it is the most heavily loaded panel within the shelter." Marion stated that with its proposed use of a less flexible metal, it "planned to perform" a bending operation on a test specimen prior to actual production. Finally, Marion was asked to describe the criteria for determining the "success" of its in-house testing of the commercial grade core material, including how the test data would demonstrate the shelter's ability to meet the FUDD's performance requirements. Marion responded that "[t]o date, the in-house engineering development testing for the candidate commercial core materials ha[s] not yet taken place. However, the submitted costs . . . are based on the assumption that the engineering evaluations will successfully prove that the candidate commercial cores can replace the currently-used core." Marion provided flow charts and diagrams of the selection process involving the use of a commercial core versus a customized core.

In our view, the evaluators reasonably considered Marion's proposed modifications of critical shelter components, including its proposal to use a weaker and less flexible aluminum alloy for the shelter's facing panels and to use an unidentified commercial grade honeycomb core, to be major disadvantages in the firm's technical approach. In its responses during discussions, Marion failed to furnish any supporting details addressing the use of the proposed alternate materials in satisfying the shelter's performance requirements. In the absence of the requested information, the evaluators reasonably concluded that Marion's proposed use of these alternate materials in lieu of the already tested and proven materials could compromise the shelter's structural (roof load, floor load, impact resistance, integration), environmental (temperature, shock, solar load), and transportability (external air transport, ground mobility, rail transport, material handling, lift/tiedown) requirements. The evaluators also were concerned that should these alternate materials prove unacceptable in post-award testing, and accordingly necessitate Marion's reverting to the already tested and proven materials, the firm's technical approach could pose a risk of significant delays in the shelter's production schedule. Since Marion had not yet tested the proposed alternate component materials, the evaluators were reasonably concerned with Marion's ability to timely satisfy the required production schedule.[2] We conclude that the evaluators,

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[2]In its comments to the agency report, referencing specific portions of its proposal and a response to a discussion question, Marion contends that if it were required to revert to standard shelter components as a result of post-award testing, it would not encounter production delays because it maintains, due to its production of other types of shelters, inventories of standard aluminum alloy facing panels and core material. We have read the referenced materials and conclude that they do not support Marion's position. In this regard, the referenced proposal sections address Marion's manufacturing facilities and equipment, its shelter assembly and

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consistent with the RFP's evaluation scheme, reasonably downgraded Marion's technical approach for adequacy and feasibility based on the firm's proposed modifications of critical shelter components which posed risks to the government involving the firm's ability to satisfy the FUDD's performance and production requirements.[3]

Marion also challenges the agency's price/technical tradeoff decision which resulted in the award to Gichner at a significantly higher price. Marion believes that the agency unreasonably factored into the tradeoff decision the previously discussed "disadvantages" in its technical approach. Marion believes that the agency had no reasonable basis for concluding that Gichner's proposal was technically superior to Marion's proposal and therefore worth the payment of a price premium.

In a negotiated procurement, an agency has the discretion to make award to an offeror whose proposal is higher technically rated and higher priced where the agency reasonably determines that the price premium is justified considering the technical superiority of the offeror's proposal and the result is consistent with the RFP's evaluation scheme. See Systems Integration & Dev., Inc., B-271050, June 7, 1996, 96-1 CPD ¶ 273.

In the source selection decision document, the source selection authority (SSA) included the final adjectival ratings for Marion and Gichner, along with their respective prices, and explained in the accompanying narrative why Gichner's proposal was viewed as technically superior to Marion's proposal. Noting the 34 percent differential between Marion's and Gichner's prices, the SSA considered the differences in the technical approaches of these two offerors and ultimately

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[2](...continued)
integration process, and its program risk assessment, including general statements about reverting to standard core material if commercial core is unacceptable or unavailable and the lead time for the proposed alternate aluminum alloy. Marion does not address inventories of standard components. Marion responded to the discussion question by stating that it planned to maintain "a sufficient safety stock [of raw materials]" to cover program requirements. Marion, however, did not specify that these inventories would include the currently tested and proven aluminum alloy facing panels and core material. We do not believe that Marion offered assurances in its proposal or in its response to the discussion question that would allay the agency's concerns with the firm's ability to timely perform the contract if it were required to revert to standard components.

[3]Since the proposed shelter modifications discussed above represent the major disadvantages in Marion's technical approach, we are not addressing the other technical areas with which the evaluators also had concerns.

concluded that the advantages in Gichner's technical approach warranted the payment of a price premium to that firm.

More specifically, the SSA noted that Gichner proposed to use a proven shelter design in accordance with the drawing package provided to the offerors and proposed performance enhancements which provided the government with a very high level of confidence that the firm would meet or exceed the shelter's performance and production requirements. The SSA specified as advantages in Gichner's proposal the firm's recognition of critical payload requirements and its plan to monitor design modifications and the impact of these modifications on the weight of the shelter; the firm's complete design of a quick erect antenna mast mount, including a detailed transportability analysis; and the firm's detailed discussion of the validation testing process, including detailed first article testing milestone charts and road testing requirements. In addition, the SSA noted that Gichner had facilities and equipment in place to begin the manufacturing process. Finally, the SSA believed that the implementation of Gichner's quality control program would provide the government with a high level of confidence that Gichner would produce a quality product. The SSA did not describe any major disadvantages in Gichner's proposal (and none was described in the final evaluation report). In short, the SSA found that Gichner's proposal was outstanding based on the firm's technical approach to meeting the shelter's performance and production requirements.

With respect to Marion, the SSA noted as advantages in its proposal its elimination of environmental control unit electromagnetic interference filters and the fact that the firm had facilities and equipment in place to begin the manufacturing process. However, the SSA also stated that there were numerous disadvantages in Marion's proposal, "[t]he most significant [being] the use of [an alternate aluminum alloy] for [the] shelter panels and the use of commercial honeycomb core material in the shelter panel." The SSA explained that "[t]hese changes introduce significant risk in the proposed shelter's ability to meet the following FUDD performance requirements: roof load, floor load, impact resistance, integration, temperature shock, solar load, external air transport, ground mobility, material handling, lift and tiedown. If during verification the shelter material cannot pass the performance requirements a significant schedule impact would occur." We point out that these concerns are supported by the underlying evaluation record and were properly considered by the SSA.[4]

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[4]The evaluators and the SSA also had concerns with Marion's ability to perform this contract based on performance and schedule delays experienced by the firm on a recent, relevant shelter contract. Marion challenged the moderate risk rating assigned by the evaluators in assessing its performance risk and the SSA's

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Under the RFP's evaluation scheme, technical evaluation factors were considered more important than price. The RFP also advised that the award would not necessarily be made to the low-priced offeror. Although Gichner's price was significantly higher than Marion's price, the SSA determined that Gichner's proposal was technically superior to Marion's proposal based on Gichner's use of a proven shelter design, its proposed use of tested and proven critical component materials, its approach to monitoring the impact of design modifications on payload and weight requirements, its detailed antenna design, its approach to testing, and its quality control program. Based on these features of Gichner's technical approach, we conclude that the SSA could reasonably determine that Gichner's technically superior proposal was worth the payment of the price premium.[5]

The protest is denied.

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[4](...continued)
consideration of this performance risk rating in making his tradeoff decision. Assuming Marion is correct that it should have received a low risk performance rating, it is clear from the record that a favorable performance rating (equal to Gichner's low risk performance rating) would not have offset the major disadvantages in its technical approach. In other words, independent of the performance risk assessment, as discussed above the evaluators and the SSA had a reasonable basis to be concerned with Marion's ability to meet the shelter's performance and production requirements because of the firm's proposed technical approach.

[5]Marion complains that the SSA did not quantify the technical advantages in Gichner's proposal in justifying the payment of a price premium. However, in a best value procurement, an SSA has the discretion to determine how to balance price and technical advantages in making the award decision. An SSA need not base a price/technical tradeoff on a mathematical calculation whereby an additional dollar will be paid only if there is a corresponding discrete technical advantage. See, e.g., EG&G Team--Recon., B-259917.3, Oct. 16, 1995, 95-2 CPD ¶ 175.