

C. W. Jody



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Wild & Leitz Technologies Corporation
File: B-224302
Date: November 12, 1986

DIGEST

Contracting agency has considerable discretion in determining the degree of testing required to obtain product conforming to specifications in request for proposals (RFP) and agency's determination will be disturbed only if it is shown to be unreasonable. Under RFP for boresight devices for tank guns which required that the devices adapt to irregularities of shape in worn gun tubes, protester fails to show that contracting agency's testing procedures were unreasonable where agency tested the devices on two tanks with worn gun tubes and protester does not show that more extensive tests were required to determine whether the devices complied with the RFP requirement.

DECISION

Wild & Leitz Technologies Corporation protests the Army's method of evaluating technical proposals submitted under request for proposals (RFP) No. DAAA09-86-R-0730 for muzzle boresight devices for use on tank guns. Specifically, Wild & Leitz contends that the Army used inadequate testing procedures for evaluating the offerors' sample devices, and failed to conduct the tests in accordance with RFP requirements. We deny the protest.

The RFP called for muzzle boresight devices to be used on two sizes of tank guns, 105mm and 120mm. The devices, which are inserted in the muzzle of the tank gun tube, are used to locate and project to the target the center of the gun tube. Offerors were required first to submit only technical proposals, including sample devices and descriptive literature, for evaluation by the Army. Price proposals then were to be submitted only by those offerors found technically acceptable. The RFP provided that award would be made to the lowest priced, technically acceptable offeror.

Seven offerors submitted technical proposals by the due date of July 3, 1986. Wild & Leitz submitted a total of three

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technical proposals, only one of which was found acceptable; two other offerors' proposals also were found technically unacceptable. On August 22, price proposals were submitted by the five offerors whose proposals were found technically acceptable. The protester's price was the second lowest of the five offerors. Award was made on August 29 to Lenzar Optics Company, the lowest priced, technically acceptable offeror.

Wild & Leitz contends that the Army's field tests of the sample devices were inconsistent with the evaluation scheme in the RFP and were inadequate to ensure that the devices would meet the Army's needs. Specifically, Wild & Leitz maintains that the field testing done by the Army was insufficient to ensure that the offerors' sample devices could adapt to irregularities or enlargements in the gun tubes caused by wear, as required by the RFP. In essence, it is the protester's position that it would have received the award had the tests been conducted properly.

Section M-5 of the RFP stated that evaluation of the technical proposals would include:

" . . . tests on contractor furnished bid samples to determine conformance to the functional purchase description. . . . Since the functional purchase description reflects the minimum acceptable characteristics desired, the bid samples submitted by an offeror shall meet all requirements of the purchase description with no failures. The failure of any one requirement in the bid samples submitted shall result in rejection of the offeror's technical proposal."

Section C-6.11 of the RFP, part of the functional purchase description, required that the muzzle boresight devices:

" . . . provide inherent design features or operational methods to minimize sensitivity to normal eccentricities and enlargements of the internal diameter at the muzzle of the gun. The device must be capable of boresighting serviceable gun tubes with flared (oval) or other irregular or enlarged muzzles."

In essence, this provision requires that the boresight devices function properly--that is, locate the center of the gun tube--despite irregularities in the shape of the muzzles caused by wear.

The Army states that the 105mm devices were tested in live fire demonstrations on a gun tube with approximately 30 percent wear measured at the breech of the gun. All the sample devices that were found technically acceptable passed this test, the objective of which was to ensure that the devices would provide a first round hit using the boresight only. The 120mm devices were fitted on a tank with a "substantially worn gun tube," but no live ammunition was fired because of the expense involved and supply limitations. In addition, since all the offerors used the same design for their 120mm devices as for their 105mm devices, for which a live fire test was conducted, the Army concluded that the performance characteristics would be the same for both sizes of the device.

Wild & Leitz first challenges the adequacy of the test for the 105mm device on the ground that the Army has failed to describe the condition of the test tank's muzzle, the critical feature of the tank for measuring the boresight device's compliance with section C-6.11 of the RFP. We find this argument to be without merit. According to the Army, a tank gun's serviceability is based on measurements taken at the breech, not the muzzle; the 105mm test tank thus is described as having approximately 30 percent wear as measured at the breech. Although the Army does not also describe the precise condition of the muzzle, it is reasonable to assume that there is a correlation between the wear on the breech and the wear on the muzzle. Accordingly, the muzzle on the test tank necessarily is one example of the condition in which the muzzle would be found on a tank of the same age and condition as the test tank.

Wild & Leitz also argues that, even assuming the gun tubes on the test tanks were worn to some degree, the two tanks did not adequately represent the full range of wear to ensure that the boresight devices would operate on all serviceable gun tubes. While the Army clearly could have chosen to test the devices on more tanks with different degrees of wear on the guns, we see no basis on which to conclude that the Army was required to do so. The RFP itself did not specify the extent of testing to be done; rather, it stated generally that the sample devices would be tested to ensure compliance with the functional purchase description. The protest thus involves a disagreement between Wild & Leitz and the Army over whether the actual testing was adequate to ensure that the Army obtains a device meeting the RFP requirement for reliable performance on gun tubes of varying conditions.

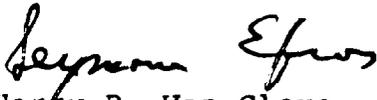
A contracting agency has a considerable range of discretion in establishing the tests necessary to determine a product's

technical acceptability, and we will not disturb the agency's determination unless it is shown to be unreasonable. Terex Corp., et al., 64 Comp. Gen. 691 (1985), 85-2 CPD ¶ 76; T.G.L. Rubber Co., Ltd., B-206923, Sept. 20, 1982, 82-2 CPD ¶ 239. Here, the Army chose to test the devices on one tank of each size; the protester disagrees with the Army's decision, arguing that the Army should have used more tanks representing the full range of normal wear on gun tubes. Wild & Leitz has not shown, however, that it was unreasonable for the Army to conclude that the successful performance of the devices on the two test tanks--one with 30 percent wear measured at the breech, one with a "substantially worn" gun tube--was a reliable indication of how the devices would perform overall on tanks with worn gun tubes.

To support its contention that more extensive testing was required, Wild & Leitz refers to an internal Army memo dated August 11, 1982, describing performance problems with bore-sight devices during field exercises with two tanks with worn gun tubes. As a preliminary matter, it is not clear, and Wild & Leitz does not maintain, that the malfunctioning devices referred to in the 1982 memo are of the same type as the device offered by the awardee. Thus, the performance problems discussed in the memo do not appear to bear directly on the reliability of the awardee's device. In any event, Wild & Leitz has not explained, and we fail to see, why the incidents described in the 1982 memo required the Army to conduct more extensive testing in connection with the current procurement.

Since Wild & Leitz has not shown that the test procedures used by the Army were unreasonable, we find no basis on which to disturb the Army's reliance on those tests in making award under the RFP.

The protest is denied.

for 
Harry R. Van Cleve
General Counsel