



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Sundstrand Corporation
File: B-227038
Date: July 24, 1987

DIGEST

Protest that firm's technically acceptable proposal for turbine engines should have been selected for award is denied since the successful proposal was also technically acceptable and was reasonably evaluated as offering the lowest probable cost under a life-cycle cost analysis which included evaluation of the guaranteed ceiling prices for future production quantities of the engine that were also to be provided by the successful contractor.

DECISION

Sundstrand Corporation protests the award of a contract to Tiernay Turbines, Inc., under request for proposals (RFP) No. DAAA15-86-R-0208, issued by the Army Armament, Munitions and Chemical Command, Edgewood Arsenal, Maryland, for 14 gas turbine engines with an option for an additional 24 engines. The engines are to be used as components for the Army's Large Area Screening System for which a full-scale development contract is currently pending following a competitive procurement. These engines will be supplied to the Large Area Screening System development contractor as government furnished equipment and will be incorporated into the development contractor's design. If the development contract is successful, the Army plans to award a production contract in which it will furnish the engines for incorporation into the production units. A major element in the evaluation of offers under the RFP is the cost of production quantities of the engine being purchased for the development contract.

Although the Army has not released any detailed information to the protester concerning its cost evaluation, because it believes this information to be privileged, Sundstrand nevertheless contends that the Army must have miscalculated the cost proposals since Sundstrand finds it "difficult to imagine" that Tiernay proposed a lower cost, lower-risk engine under the solicitation's cost evaluation scheme than the engine proposed by Sundstrand.

We deny the protest.

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The RFP, issued on October 10, 1986, provided that the government would award the contract to the offeror whose proposal was technically acceptable and evaluated to have the lowest probable cost. The RFP contemplated the submission of separate technical and cost sections in the proposals. Under the solicitation's evaluation scheme, proposals were not scored technically, but simply were rated as "acceptable" or "unacceptable" as to pre-established technical criteria contained in the solicitation's performance specifications. The RFP's cost evaluation scheme was essentially based on a life-cycle, lowest probable cost analysis based on the following elements: (1) the basic requirement for 14 gas turbine engines and the option quantity of 24 engines; (2) guaranteed ceiling prices for certain future production quantities of the engines and including spare and repair parts; (3) data rights; and (4) maintenance/spare and repair parts usage. The RFP stated that the cost of the basic and option quantities would be added to the other listed costs to determine a total probable cost. Thus, while the Army was principally soliciting the procurement of only 38 engines (basic and options), its cost evaluation included guaranteed ceiling prices of substantial future production quantities that were made known to the offerors (the actual cost evaluation conducted by the Army was based on future production estimates of 1,500 engines).

The RFP specified that various areas of information were required to be addressed by each offeror in its proposal, generally including limitations on profits and cost for future production quantities and a listing of all components and parts and associated costs. The RFP stated that "[n]egotiations [would] be conducted to establish production price ceilings on future quantities . . . and sole-source components, spare and repair parts."

Of five proposals received, only Sundstrand's and Tiernay's proposals were found to be technically acceptable by the Army. Discussions were conducted and best and final offers were received by February 26, 1987. The Army's evaluation of probable cost resulted in a 25 percent advantage to Tiernay after initial proposals and a 32 percent advantage after best and final offers.^{1/} This cost evaluation result obtained despite the fact that Sundstrand's unit prices for the engine for the basic and option quantities (38 engines) were substantially lower than the prices proposed by

^{1/} This information was revealed to the parties by the Army in its agency report.

Tiernay. After being notified of the award to Tiernay, Sundstrand filed this protest.

Sundstrand contends that its engine is reliable, cost-effective and is currently in production and in use in military helicopters with 1,600 units delivered to date. Further, Sundstrand states that logistical support for its engine is already in place so that no additional cost to the government in this respect would be required and that there are minimal technical, schedule, and cost risk with its engine. In essence, Sundstrand cannot understand why its engine was not selected as the low-cost, low-risk engine, especially in view of its low per-unit prices for the basic and option quantities and since its engine has a long history of actual cost data.^{2/}

The contracting agency has the responsibility to evaluate proposals in accordance with stated evaluation criteria. Experimental Pathology Laboratories, Inc., B-221304, Mar. 10, 1986, 86-1 CPD ¶ 235. As stated previously, the Army has not released any of its evaluation reports or Tiernay's cost proposal to the protester. Thus, the sole factual basis for Sundstrand's allegations concerning improper cost evaluation is essentially the Army's decision to select Tiernay for award despite the submission by Sundstrand of a sound proposal for a reliable, low-cost, low-risk engine with a history of actual cost data. While we are unable to reveal cost details concerning the evaluation, our decision is based on a review of all relevant reports and exhibits submitted to our Office by the Army. Our review of the record indicates that the Army strictly adhered to the stated evaluation criteria and that Sundstrand's proposal was simply not evaluated to be the lowest probable cost, technically acceptable proposal under the solicitation's cost evaluation scheme.

Specifically, the evaluation documents show that the Army made a life-cycle cost comparison between the two proposals using the following elements: (1) basic and option quantities (figures evaluated by the Army were derived from the offerors' cost proposals); (2) future production costs (also derived from the cost proposals); (3) initial and recurring

^{2/} Other protest grounds initially raised by the protester, including various alleged solicitation improprieties and the Army's failure to issue certain solicitation amendments, are admittedly untimely and have been withdrawn by Sundstrand. Sundstrand now agrees that the only remaining issue is the propriety of the Army's life-cycle cost evaluation.

spares (based on a percentage factor of acquisition cost of production quantities); and (4) fuel (also based on a percentage factor of the acquisition cost of production quantities).

Our review of the evaluation documents shows that Sundstrand lost the competition because Tiernay offered substantially lower costs for future production quantities. Specifically, the record shows that Tiernay agreed to provide the Army with 1,500 engines (future production units) on a multi-year basis at a guaranteed "not-to-exceed" ceiling price that was lower than Sundstrand's offered price.

We recognize that under the RFP the successful contractor need not furnish these production quantities if it delivers to the government a technical data package for the purpose of a competitive acquisition (and in this sense the successful contractor's obligation to furnish production quantities is qualified). Nevertheless, we have no basis to question the agency's evaluation of the future production units. If the contractor does furnish production units, the ceiling price would govern. If, on the other hand, the contractor elects to furnish a data package in lieu of production units, the record shows that the technical data package has substantial value to the government. In this regard, the provision was intended by the government to avoid any unconscionable pricing results from the evaluation of the future production units. The contracting officer estimates that, without the technical data package, reverse engineering or independent development of the Tiernay engine would cost \$30 million. Moreover, if Tiernay elects not to furnish the production units but furnishes the technical data package for a competitive acquisition, the government, under the terms of the awarded contract, may exclude Tiernay from the competitive procurement. Further, the protester competed under these terms without raising any objection. Indeed, the protester does not argue that the agency should not have evaluated the price of the future production units in its evaluation.

The protest is denied.

Harry R. Van Cleve
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General Counsel