



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Kings Craft, Inc.; Halter Marine, Inc.
File: B-231912; B-231912.2
Date: November 7, 1988

DIGEST

Agency may properly award contract to a higher priced, higher technically rated offeror where doing so is reasonable and consistent with the solicitation's evaluation criteria.

DECISION

Kings Craft, Inc., and Halter Marine, Inc., each protests the United States Coast Guard's (USCG) award of the contract to Textron, Inc., under request for proposals (RFP) No. DTCG23-88-R-30001. We deny the protests.

The RFP is for the design and construction of a prototype motor life boat (MLB), for which the RFP contained performance specifications and a preliminary design. In general terms, the MLB is to be a high-speed rescue craft capable of surviving severe weather and seas. It is to be 47 feet in length, constructed of aluminum, and capable of surviving 360 degree rolls or pitching (end-over-end), including 30 seconds in the inverted position, without damage to the boat or its equipment or machinery, with the crew and up to 6 rescued survivors onboard.

The RFP required offerors to describe their management, design and construction capabilities, experience, and facilities, and stipulated that proposals would be evaluated on the basis of six factors: high speed boat design/analysis; aluminum construction procedures/processes; design configuration control; weight control/material inspection; project organization and management; and price. The first two factors were equally important and together were more important than all the other factors. Experience in each category was to be assessed with particular emphasis on the actual design and construction of high speed aluminum craft with critical weight, structural and machinery

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requirements. The USCG plans to follow this development effort with the competitive acquisition of about 100 MLBs.

The protesters are experienced primarily in the construction of traditional high speed aluminum surface craft; where needed, each proposed to supplement its design experience through subcontracts. Textron has strong experience in the design and construction of aluminum air cushion boats that operate by "flying" above the surface of the water on a captive cushion of air. The USCG found that Textron's proposal offered substantial technical advantages, and awarded the contract to that firm on June 29, 1988. Textron's price was higher than that of either of the protesters.

Kings Craft contends that by awarding the contract to Textron, the USCG is paying a premium for technical capabilities not needed for the design and construction of the MLB. Kings Craft argues that since all offerors were within the competitive range and, therefore, must have submitted acceptable proposals, the only basis for discrimination should have been price. Kings Craft contends that the award of the contract to Textron at a price higher than its own was therefore improper. Kings Craft also challenges the USCG's authority to use the "Streamlined Source Selection Procedures" employed in the acquisition; these procedures shorten the time for an acquisition by focusing the procurement only on those areas considered critical.

Halter notes that experience was supposed to be an important element in the USCG's assessment of each of the evaluation factors and argues that this meant experience in the design and construction of traditional high-speed surface vessels, which Halter contends are more like the MLB than are air cushion craft because both traditional boats and the MLB operate on the surface with their propellers in the water. Halter contends that the USCG must have miscalculated Textron's proposal in that regard because Textron's experience is primarily in the design and construction of air cushion craft dissimilar to the MLB. Halter asserts that its own experience in surface vessels is much more extensive than that of Textron and, therefore, should have resulted in Halter receiving the higher technical rating.

Initially, we observe that Kings Craft's challenge to the USCG's use of streamlined procedures in this acquisition, absent any allegation or showing that their use prejudiced the outcome of the procurement, fails to state a basis for protest. Consequently, we will not consider this matter.

With regard to the protesters' challenge to the USCG's evaluation of proposals, we first point out that it is not our function to rescore proposals or make independent judgments concerning the scores which should have been assigned. Tichenor & Eiche, B-228325, Dec. 28, 1987, 87-2 CPD ¶ 631. Our review of allegedly improper technical evaluations is limited to a determination of whether the evaluation was fair and reasonable and consistent with the evaluation criteria. We will question a contracting agency's determination of the technical merit of proposals only upon a clear showing of unreasonableness or abuse of discretion. New Mexico State University, B-230669.2, June 2, 1988, 88-1 CPD ¶ 523; Jones & Company, Natural Resource Engineers, B-228971, Dec. 4, 1987, 87-2 CPD ¶ 555. There is no such showing here.

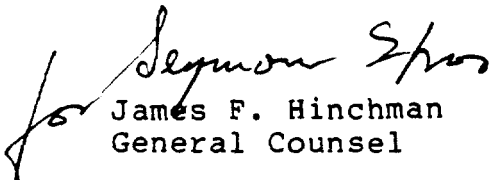
We disagree with Halter's suggestion that the USCG should have discounted Textron's experience in air cushion vessels and accorded greater weight to Halter's experience in the construction of traditional high-speed surface craft. Both this contention and Kings Craft's assertion that the USCG is paying a premium for unneeded design capabilities appear intended to persuade us that the MLB is just another surface craft with some special added capabilities. Neither of the protesters, however, has identified any traditional surface craft with survivability and stability requirements approaching those of the MLB, and it is these important factors that distinguish the MLB from more traditional boats. The USCG recognized this absence of analogous craft in the RFP by emphasizing the need for experience in projects involving those design factors critical to the MLB, such as stringent weight control, sophisticated aluminum construction techniques, and complex stability and survivability analyses, without regard to the particular type of high speed aluminum vessel on which they may have been employed. Given the unique requirements of the MLB and the importance of these design factors to the accomplishment of those requirements, we cannot say that the USCG was unreasonable in not affording added weight to experience in the construction of surface crafts.

Moreover, we are convinced by the results of the evaluation and our reading of all three proposals that the USCG was reasonable and consistent in applying the evaluation criteria. This is primarily because, although all three offerors involved in this protest addressed substantially all of the requirements of the RFP, there were significant differences in the level of detail, sophistication and experience reflected in their proposals. Where, for instance, the protesters may merely have acknowledged a potential design problem reflected in the RFP and noted

that it would have to be studied, Textron either posed an analytical approach and the criteria that would be used in seeking a solution or, where a potential solution might be known, identified the solution and how it was derived, based on Textron's experience in prior projects. Textron also identified potential areas of concern beyond those identified by the RFP or either of the protesters and offered significantly greater computer aided design capabilities. Textron's higher evaluation score does nothing more than recognize the qualitative differences among these proposals. We find nothing unreasonable in this assessment.

In a negotiated procurement, the government is not required to award to the lowest cost offeror unless the RFP specified that cost would be determinative. Where an RFP provides that technical factors are more important than price, the procuring agency may select a more highly rated and higher priced technical proposal if doing so is in the government's best interests and is consistent with the evaluation scheme set forth in the RFP. Diversified Contract Services, Inc., B-228168.3, May 17, 1988, 88-1 CPD 463. Price was the least important discriminating factor in this RFP and would only become determinative if two or more proposals were substantially equal technically. As we noted above, however, the USCG reasonably found Textron's proposal to be technically superior. In these circumstances, we find no basis to object to the USCG's selection of Textron.

The protests are denied.


James F. Hinchman
General Counsel