

M. JORDAN



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: DBA Systems, Inc.
File: B-241048
Date: January 15, 1991

J. Kenneth Campbell for the protester.
Craig E. Hodge, Esq., and David H. Scott, Esq., Department of the Army, for the agency.
Paul E. Jordan, Esq., Paul Lieberman, Esq., and John F. Mitchell, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester was properly excluded from the competitive range where the agency appropriately concluded that the protester had no reasonable chance for award because of several deficiencies in its technical proposal, the correction of any one of which would have required major revisions to the proposed design.

DECISION

DBA Systems, Inc. protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. DAAD05-90-R-0013, issued by the Army Test and Evaluation Command, Aberdeen Proving Ground, Maryland, for a Test Vehicle Measurement System (TVMS). DBA contends that it proposed a system which complied with the RFP's specifications and that any perceived deficiencies in its proposal should have been resolved through discussions.

We deny the protest.

The Army Combat Systems Test Activity at Aberdeen Proving Ground is responsible for test and evaluation of wheeled and tracked vehicles and vehicle weapon systems. Test data is recorded and stored by a microcomputer installed on board the test vehicles. During a typical test, a vehicle travels a fixed number of miles over a preselected combination of test courses and interconnecting roads. When the agency uses concurrent test programs, executing simultaneous test scenarios with multiple vehicles within a single test area, communication coordination and control becomes more difficult.

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Offerors were solicited to submit proposals on a cost-plus-fixed-fee basis to design a TVMS that would provide continuous vehicle data as the testing is conducted. The system consists of a radio transmission subsystem, test area control station, central data communication center, mobile data radio, and a pulse code modulated data telemetry subsystem, and was to be developed in five phases: design, prototype, and implementation on three separate test areas.

Three proposals, including DBA's, were received by the April 30, 1990, closing date and were evaluated on the basis of "[Technical] Merit," "Cost," and "Performance Risk," in descending order of importance. The RFP provided that an offeror was required to be acceptable under all three criteria, and a deficiency in any one could constitute a basis for rejection of the proposal. The evaluators found that DBA's technical approach was deficient with respect to continuous radio frequency pattern, separate paths for data and control communications, proposal of two antennas per vehicle, and separation of test course branches, the correction of any one of which would entail a major revision to DBA's proposal. Because it found DBA's proposal to be technically unacceptable and incapable of being made acceptable without major revisions, the agency eliminated DBA from the competitive range. Upon notification of its elimination, DBA filed a protest with our Office.

DBA challenges the agency's determination and contends that answers to the evaluators' concerns are contained in its proposal. DBA maintains that review of its proposal, the RFP, and the protest file establishes that its proposal not only complied with the RFP's specifications but constituted a technically superior approach.

The evaluation of technical proposals and the resulting determination as to whether an offer is in the competitive range is a matter within the discretion of the contracting agency, since that agency is responsible for defining its needs and the best method of accommodating them. Thus, our Office will not make an independent determination of the merits of technical proposals; rather, we will examine the agency's evaluation to ensure that it was reasonable and consistent with stated evaluation criteria and applicable statutes and regulations. Information Sys. & Networks Corp., 69 Comp. Gen. 284 (1990), 90-1 CPD ¶ 203. A protester's mere disagreement with the agency does not render the evaluation unreasonable, particularly where the procurement concerns sophisticated technical hardware. Litton Sys., Inc., B-237596.3, Aug. 8, 1990, 90-2 CPD ¶ 115.

In view of the agency's explanation that correction of any one of the deficiencies in DBA's proposal would require major

revisions to DBA's proposal, we will not address every deficiency noted, but rather a representative sample. Most of the deficiencies identified by the Army relate to DBA's approach to providing the radio transmission subsystem. This subsystem is the transmission medium between the control station and the vehicle mounted equipment. The RFP specifications provided that a "controlled, distributed radio frequency radiation pattern such as can be achieved by using slotted coaxial cable . . . is required for complete continuous coverage of all the test courses."

In its proposal, DBA discussed and explicitly rejected a system using slotted coaxial cable, proposing instead a cellular distribution network using multiple transmitters and antennas which would be placed around the test courses, producing overlapping areas of coverage. The evaluators noted that layout diagrams in DBA's proposal indicated that DBA would require omnidirectional antennas to provide the coverage depicted.^{1/} However, since the narrative portion of DBA's proposal provided for antennas that were not omnidirectional, they would have to be directed at the test courses and would not provide the coverage shown in the proposal's diagrams. Based on our own review of those diagrams, they do depict omnidirectional antennas and, in fact, show places along the course which do not fall within the depicted frequency areas.

DBA acknowledges that its antennas are not omnidirectional and that the diagrams depict a generalized view of the radiation patterns. However, it argues that since the text of its proposal makes clear that it will provide the necessary coverage, the agency has placed undue reliance on the diagrams. We find that the agency was reasonably entitled to review the diagrams included in the proposal and rely upon them to determine technical acceptability, where the diagrams made clear that the claimed coverage would not be provided by the actual design proposed.

According to the agency, unlike DBA's cellular approach, slotted coaxial cable, which is placed alongside the test course, uses a single transmitter to produce a continuous radio frequency pattern all along the cable, with maximum effectiveness in the direction perpendicular to the cable's axis. While DBA argues that its system is functionally equivalent and superior to slotted coaxial cable, the agency maintains that DBA's system introduces complications to the communication hardware which are not present with slotted coaxial cable. These complications generally coincide with other deficiencies identified by the evaluators including the

^{1/} An omnidirectional antenna is one which receives or sends radio waves equally well in all directions.

need to precisely locate and align the alternating ground antennas along the test courses, a need for specific placement and alignment of two separate vehicle-mounted antenna arrays, and use of a single radio frequency for transmission and receipt of both data and control signals. Correction of the identified deficiencies would entail further complications through additional hardware or a redesign of DBA's system.

With regard to the use of two vehicle-mounted antennas, the agency acknowledges that it did not limit the number of vehicle antennas, but explains that common engineering practice would require only one. It also explains that the requirement for two precisely positioned antenna arrays on a wide variety of changing combat vehicles undergoing development testing makes DBA's proposal unacceptable. DBA argues that the agency misread its proposal, contending that although it discussed the use of multiple antenna arrays as a design consideration, its proposed solution provided for only one antenna.

We have reviewed DBA's proposal on this subject, which includes the statement that one antenna array should be mounted near the front and top of the test vehicle and a different antenna array should be mounted near the rear of the vehicle in line with the first array. We agree with the agency that the only reasonable interpretation of the proposal is that DBA's solution provides for two antennas, one at the front of the vehicle and one at the back. An offeror is responsible for demonstrating affirmatively the merits of its proposal, and it runs the risk of rejection if it fails to do so. Vista Videocassette Servs., Inc., B-230699, July 15, 1988, 88-2 CPD ¶ 55.

DBA takes issue with much of the agency's technical assessment and criticisms and replies in great technical detail why it believes its system is superior. The agency has provided detailed responses to each of DBA's arguments. Based upon our review of the RFP, DBA's proposal, and the arguments of the parties, we find that the agency was reasonable in identifying the various matters as deficiencies, and that DBA's arguments constitute a mere disagreement with the agency's technical judgment which does not render the evaluation unreasonable, particularly where, as here, the procurement concerns sophisticated technical hardware. Litton Sys., Inc., B-237596.3, supra; Boliden Metech, Inc., B-229861.2; B-229862.2, May 9, 1988, 88-1 CPD ¶ 446.

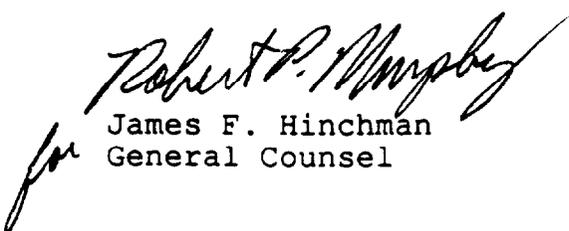
DBA also argues that while the matters identified by the evaluators are valid points which could have been raised for clarification, they should have been the subject of discussions. Discussions are held with offerors in the

competitive range. Federal Acquisition Regulation (FAR) 15.610 (1990). FAR § 15.609(a) defines the competitive range as including all proposals that have "a reasonable chance" of being selected for award, that is, those proposals which are technically acceptable as submitted or which are reasonably susceptible of being made acceptable through discussions. Information Sys. & Networks Corp., 69 Comp. Gen. 284, *supra*. Where a proposal is technically unacceptable as submitted and would require major revisions to become acceptable, the agency is not required to include the proposal in the competitive range for discussion purposes. W.N. Hunter & Assocs; Cajar Defense Support Co., B-237259; B-237259.2, Jan. 12, 1990, 90-1 CPD ¶ 52.

Here, under the "Merit" (technical) factor, worth 100 points, the "Technical Approach" subfactor was most important, with 30 of its 50 points attributable to whether the offeror's approach demonstrated an understanding of the problem and offered a realistic solution. DBA's proposal received a score of 14 out of the possible 30 points. In the remaining subfactors, DBA scored only 53 of 70 points, for a total score of 67. DBA's low score reflects the agency's reasonable determination that DBA was unacceptable in the "Merit" evaluation area, and since correction of the evaluated deficiencies would require major revisions to DBA's proposal, the agency reasonably determined to exclude DBA from the competitive range. *Id.*

Finally, DBA argues that the agency's interpretation of the specifications demonstrates a preference for the slotted coaxial cable approach which is unduly restrictive of competition and amounts to a sole-source procurement. While the agency does appear to prefer the slotted coaxial cable system, offerors were not restricted to that solution. The RFP simply required that the radio transmission subsystem provide radio frequency coverage "such as" can be achieved by slotted coaxial cable. So long as an approach produced coverage equivalent to this approach, it would be acceptable. As outlined above, the agency reasonably determined that DBA's solution did not provide equivalent frequency coverage. Further, inasmuch as there are two offerors in the competitive range, we find no basis for DBA's contention that this is a sole-source procurement.

The protest is denied.


for James F. Hinchman
General Counsel