Jordan 148307

Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Steward-Davis International, Inc.

File: B-250254; B-250254.2

Date: December 17, 1992

Howard Stanislawski, Esq., and Joseph C. Port, Esq., Sidley & Austin, for the protester.
Robert S. Gardner, Esq., Sherman & Howard, for World Auxiliary Power Company, an interested party.
Gregory H. Petkoff, Esq., and Milton D. Watkins, Esq., Department of the Air Force, for the agency.
Paul E. Jordan, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where solicitation did not prohibit design feature proposed by awardee, agency reasonably concluded that proposal met the minimum requirements for technical acceptability.

DECISION

Steward-Davis International, Inc. (SDII) protests the award of a contract to World Auxiliary Power Company (WAPCO) under request for proposals (RFP) No. F34601-92-R-57089, issued by the Department of the Air Force, for the supply of auxiliary power unit (APU) enclosures. SDII contends that the agency's technical evaluation was flawed and that WAPCO's proposal should have been found technically unacceptable.

We deny the protest.

APUs are gasoline powered turbine engines used on aircraft to provide on-board, aircraft engine starting capability and electrical power for interior heating and cooling, and for other ground operations. The APU enclosures solicited in this procurement are to be used in conjunction with the replacement of existing APUs on Air Force Model KC-135D and

KC-135E aircraft, with APUs manufactured by the Garrett Turbine Engine Company. The APU's are mounted on the floor of the aircraft above the cargo bag. The solicitation included requirements for design and fabrication, trial installation on two of each aircraft, kit proofing, and the ultimate supply of 94 production interface kits, installation training, and technical data.

The solicitation contemplated a modified two-step procedure, requiring each offeror to submit, in separate packages, a technical proposal and a price proposal. The technical proposal was to include a detailed discussion of the proposed approach to meet the requirements of the specifications and an explanation of the facility, system, or equipment the offeror intended to furnish. The proposal had to clearly demonstrate the offeror's understanding and insight into the item(s) and possible associated risk. Compliance with the statement of work (SOW) was mandatory, with final design to be approved after award.

The technical evaluation was conducted on a "go/no go" basis under the following factors: understanding of the problem; soundness of approach; simplicity of design; special technical factors; and ease of maintenance. Award was to be made to the responsible offeror whose conforming offer was most advantageous to the government, price and other factors considered. Offerors were advised to ensure that their initial proposals contained their best technical and price terms.

Five offerors including SDII and WAPCO submitted proposals by the May 8, 1992, closing date. After an initial evaluation, clarifications were requested and submitted by each offeror. Subsequent amendments to the SOW and schedule extended the closing date to June 29. All five offerors submitted revised proposals by the extended closing date and all five proposals were evaluated as technically acceptable. The agency conducted a preaward survey of WAPCO and awarded it the contract on September 1.[1] SDII's protests of the award followed.

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[1]Another offeror submitted the lowest price proposal, but was found nonresponsible.

SDII's protests concern the use of inlet and exhaust doors in the WAPCO enclosure design.[2] The SOW provided that the APU was to be installed in a fireproof and vented enclosure which incorporated "automatic operating doors on all inlets and exhaust openings that are required for APU operation." These doors are electrically operated plates which cover the openings to the outside of the aircraft's fuselage for the air inlet and exhaust gases necessary during operation of the APU. According to the Air Force report, the doors are used for aerodynamic fairing (drag reduction) and maintenance of pressure inside the fuselage, since the APU is located in a pressurized area of the aircraft.

The SOW provided that the APU was to be installed in accordance with the Garrett Turbine Engine Company Installation Handbook (Handbook) and the SOW, with the Air Force exercising final approval of the installation. With regard to inlet and exhaust doors, the Handbook provides:

> "Inlet doors, as with exhaust doors, should never be used unless specifically required for reasons of aerodynamic drag, unacceptable APU windmilling, or inability to obtain altitude starts. Doors for the sake of esthetic value are not warranted. The weight, cost, and complexity associated with doors, hinges, fasteners, actuators, and control systems are major factors supporting this position." [Emphasis added.]

The protester contends that the emphasized language in the Handbook allows use of doors only for the specific reasons stated and, thus, prohibits use of doors for any other reason. Since WAPCO's proposal only discussed pressure considerations with regard to its door design, SDII contends that the proposal is technically unacceptable. Because SDII's own proposal incorporates doors for fairing purposes only, it argues that it is entitled to the award. We disagree.

The evaluation of technical proposals is primarily the responsibility of the contracting agency; the agency is responsible for defining its needs and the best method of accommodating them, and must bear the burden of any

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[2]In its initial protest (B-250454), SDII also alleged that the agency improperly conducted discussions with WAPCO concerning the door portion of its design. However, the agency report established that there were no such discussions. Since SDII's comments on the agency report did not further discuss this issue, we consider it abandoned. See Reach All, Inc., B-229772, Mar. 15, 1988, 88-1 CPD ¶ 267.

difficulties resulting from a defective evaluation. 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. Litton Sys., Inc., B-237596.3, Aug. 8, 1990, 90-2 CPD ¶ 115.

At issue here is whether WAPCO's design approach for its APU enclosure is, in effect, prohibited by the solicitation. As the Air Force discusses in its report, WAPCO's design approach is similar to the APU enclosures for the KC-135 aircraft purchased in the past--the enclosure is not itself pressure-tight and will not maintain air pressure in the remainder of the aircraft. The inlet and exhaust doors of the APU enclosure must therefore seal in air pressure during flight. In contrast, SDII's design, which the firm characterizes as "unique," seals the APU from the remainder of the aircraft interior so that the inlet and exhaust doors to the APU enclosure need not themselves be pressure-tight.

The Air Force argues that the Handbook was included in the solicitation only for purposes of installation of the APU, and should not be read to restrict design features of the doors. While the Air Force view appears to have merit, whatever the purpose of the Handbook, we do not find that the solicitation requires a new approach to enclosing APU's in KC-135 aircraft, so that the traditional use of pressure-tight inlet and outlet doors are unacceptable. SDII's argument that the three "exceptions" quoted above are exclusive is based only on the first sentence of the applicable Handbook provision. When read in context of the balance of that provision, it is clear that the APU manufacturer is concerned that doors be used only when required, and not merely for esthetics, in view of the weight, cost, and complexity associated with the doors, actuators, etc. The Handbook provides at paragraph 5.7.2, that "[w]hen an APU is located in the pressurized area, the door actuation system should be so designed that no possible failure can cause a door to open in flight and, thus, result in depressurization." This provision establishes that the Handbook author expected that, when APUs are installed in a pressurized area as they will be in this case, the doors (not the APU enclosure) will be pressure-tight.

During a pre-proposal conference the protester asked if doors for the inlet and exhaust openings were required even if unnecessary for APU installation. The Air Force answered that "inlet and exhaust doors are required." When asked if doors were required if aerodynamic drag could be minimized, the Air Force responded that such a proposal would be an alternate that "shall be only considered after responding to the solicitation requirement." Thus, while the APU

manufacturer believes that the use of doors should be minimized, the solicitation, as modified by inclusion of written answers to questions raised in the pre-proposal conference, unequivocally required the installation of doors. The protester has not identified and we do not find a prohibition in the solicitation against designing the doors, which were clearly required in each offeror's approach, to maintain fuselage pressure.

Our understanding of the solicitation is consistent with the anticipated use of the APU's in KC-135 aircraft. When an APU is located within a pressurized area and is to be used in-flight, the APU enclosure itself must be pressure resistant to preserve internal pressure when the inlet and exhaust doors are opened for APU operation. The Air Force APUs in this case are to be used only on the ground; there is no operational reason that the enclosure need be pressure resistant. If it is not, then the inlet and exhaust doors must function to maintain the internal pressure of the fuselage. While SDII's proposed pressure resistant enclosure is consistent with the requirements of the SOW and Handbook, we do not find that it is required. Since the SOW does not provide that use of the doors for pressure maintenance is improper, there is no basis to conclude that WAPCO's design incorporating doors for that purpose is technically noncompliant.

The only remaining inquiry is whether the Air Force's evaluation of WAPCO's proposal was reasonable. In its proposal, WAPCO provides a detailed description of its enclosure design including its door design. The proposal specifically notes that the design incorporates a seal and other features for cabin pressurization, including manual override control in case of actuator failure.

The fact that WAPCO did not provide a more detailed description of its approach or specifically mention the effect of the doors on aerodynamic fairing provide no basis to find the evaluation flawed. The solicitation required each offeror to provide a proposed approach sufficiently detailed to allow the evaluators to determine the offeror's capability and intention. Design approval of the awardee's proposed approach was to be provided as the program underwent various phases, including design reviews and test procedure documentation. Thus, there was no requirement for detail beyond that sufficient to convince the evaluators of the acceptability of the proposal. Here, the doors' design, operation, and pressure sealing features indicate that the doors will reduce aerodynamic drag and support the evaluators' determination that WAPCO's design was technically acceptable. Thus, from our review of the record, we find no basis to challenge the reasonableness of

the Air Force's evaluation of WAPCO's product as technically acceptable. Litton Sys., Inc., supra.

SDII also alleges that doors of the type proposed by WAPCO have suffered at least one serious failure in the past. However, SDII provides no evidence to support its allegation and WAPCO's proposal lists specific instances of successful installation and operation of similar units on Navy aircraft. SDII's mere unsupported allegation and its speculation that the doors are susceptible to failure provide no basis to sustain its protest. See Delta Ventures, B-238655, June 25, 1990, 90-1 CPD ¶ 588.

The protest is denied.

for James F. Hinchman
General Counsel