



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Aydin Computer and Monitor Division, Aydin Corporation

File: B-249539

Date: December 2, 1992

Frank M. Rapoport, Esq., Daniel I. Prywes, Esq., and Charles H. Carpenter, Esq., Pepper, Hamilton & Scheetz, and Gary T. Boswell, for the protester. Carl L. Vacketta, Esq., Michael W. Clancy, Esq., and Mark A. Riordan, Esq., Pettit & Martin, for GE Ocean & Radar Systems Division, General Electric Company, an interested party. John B. Bennett, Esq., United States Marine Corps, for the agency. Glenn G. Wolcott, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency properly rejected as technically unacceptable a proposal which did not evidence a full understanding of the technical requirements of the solicitation and failed to demonstrate a reasonable probability of performing the technical aspects of the required work.
2. Agency reasonably led protester to area of its proposal that was rated "unacceptable," thereby conducting meaningful discussions, where the agency sought responses to 20 technical questions, several of which were relatively broad, and the protester's responses to at least two of those questions specifically addressed that aspect of its proposal that was rated "unacceptable," evidencing the protester's recognition of the agency's area of concern.

DECISION

Aydin Computer and Monitor Division, Aydin Corporation protests the Marine Corps Systems Command's rejection of Aydin's proposal and the award of a contract to GE Ocean & Radar Systems Division, General Electric Company, under request for proposals (RFP) No. M67854-92-R-1069. The solicitation sought modifications to the Marine Corps's

AN/TPS-59 radar system. Aydin challenges the agency's determination that its proposal was technically unacceptable and maintains that the agency failed to conduct meaningful discussions.

We deny the protest.

BACKGROUND

The RFP was issued on February 18, 1992, and contemplated design, development, fabrication, integration, installation, and testing of modification kits for the AN/TPS-59 radar system. The system is currently capable of detecting conventional fighter-size aircraft at distances up to 300 miles; the RFP called for modifying the system to make it capable of detecting tactical ballistic missiles and other targets as small as .1 square meter at distances up to 400 miles, and to provide a data link output to the Homing all the Way Killer (HAWK) missile system via the Joint Tactical Information Distribution System (JTIDS).¹ The agency contemplated extensive changes to the radar system in terms of both hardware and software as a result of this procurement; the agency's overall objectives were detailed in a statement of work in excess of 60 pages and system specifications in excess of 100 pages.²

Section L of the RFP, which provided offerors with instructions for proposal preparation, advised offerors that "statements paraphrasing the specifications or parts thereof are inadequate," and indicated that technical proposals "must be sufficient to demonstrate how the offeror propose[s] to comply with the applicable specifications, including a full explanation of the techniques, disciplines and procedures to be utilized."

¹The modification for improved detection capability was intended to assist in defending against tactical ballistic missile threats such as those posed by the Scud missile during Operation Desert Storm. In addition to improved detection capability, the RFP contemplated system improvements related to reliability and maintainability, including modifications to increase mean time between failures from 1,000 to 2,000 hours, improvement of equipment mean time repair from 40 minutes to 30 minutes, and enhancement of tactical mobility through repackaging electronic components and eliminating one of two electronics shelters in which the system is housed.

²In addition, the Marine Corps established a comprehensive technical library available to potential offerors which included numerous volumes of technical manuals, drawings, and instructions related to the AN/TPS-59 radar system.

Section M of the RFP provided that, in evaluating proposals, technical factors would be more important than cost or price,³ and listed the following technical evaluation factors in descending order of importance: (1) demonstrated understanding of the AN/TPS-59 or equivalent radar system; (2) data processing; (3) signal processing; (4) interface requirements; (5) communications; (6) MK XII/IFF (Mark XII/identification friend or foe); (7) BIT/BITE (built in test/built in test equipment); and (8) shelter layout/configuration. The agency's source selection plan provided that technical proposals would be scored using the following method: 90-100 (excellent); 80-89 (good); 70-79 (fair); 60-69 (poor); and 0-59 (unacceptable). Each rating level was accompanied by a narrative description.

The agency's source selection plan established a contract review board (CRB) "to review and evaluate proposals," and to make competitive range and award recommendations to the source selection authority (SSA). A technical evaluation board (TEB) was also established to assist the CRB in its evaluation responsibilities; the source selection plan provided that the TEB's findings and recommendations "shall not be binding on the CRB [or the] SSA."

The RFP initially provided for submission of proposals by May 1, 1992; at Aydin's request, the closing date was extended to May 4. GE and Aydin each timely submitted proposals by the closing date.⁴ The cost stated in Aydin's proposal was approximately \$40 million; the cost stated in GE's proposal was approximately \$145 million.

Thereafter, the TEB performed an initial evaluation of the technical proposals. On May 15, the TEB provided a report of its evaluation, along with backup documentation, to the CRB. The TEB identified a substantial number of weaknesses throughout Aydin's proposal. Among other things,

³The RFP contained both development and production aspects, and provided that the development portion of the contract would be performed on a cost-plus-incentive-fee basis and the production portion would be performed on a fixed-price-plus-incentive-fee basis.

⁴At a hearing conducted in connection with this protest, Aydin's witnesses stated that Aydin's proposal preparation effort was begun by Aydin Corporation (West), a sister corporation which includes the Radar and Electronic Warfare Division. However, the proposal effort was transferred to Aydin Computer and Monitor Division in Pennsylvania following the federal government's suspension of Aydin Corporation (West) on April 21. Hearing Transcript (Tr.) at 213, 355, 369.

the report stated that Aydin's proposal contained "minimal demonstration of AN/TPS-59 or equivalent radar knowledge," adding that "in numerous areas of the proposal, [Aydin] simply restate[d] the requirement contained in the RFP rather than demonstrating a capability and understanding." Nonetheless, the report stated that "both proposals were judged technically acceptable."

The CRB reviewed the May 15 TEB report and expressed concern regarding Aydin's reiteration of RFP requirements, but concluded that Aydin's proposal should be included in the competitive range and recommended that discussions be conducted with both offerors; the SSA accepted the CRB's recommendation on June 1. By letter dated June 2, the agency advised Aydin that its proposal was in the competitive range and requested responses to 6 cost/price questions and 20 technical questions. Aydin provided its responses on June 9.

Thereafter, the TEB conducted a second evaluation. Prior to that evaluation, the CRB reminded the TEB that it should specifically consider the RFP provision that proposals "paraphrasing the specifications or parts thereof are inadequate." During the second evaluation, the TEB gave greater consideration to this RFP provision, rating Aydin's proposal "unacceptable" in the area of signal processing,⁵ and "poor" overall.⁶ The TEB provided a summary of its second evaluation with supporting documentation to the CRB in a report dated June 25. Although the TEB found Aydin's

⁵Aydin's proposal received a score of 59 in the area of signal processing, the third most important evaluation factor.

⁶The source selection plan's narrative description of a proposal rated in the "poor" range stated:

"proposal indicates a shallow or less than full understanding of the problem. The technical analyses meet the requirements and are technically correct, but the offeror fails to demonstrate a reasonable probability of performing the desired task, or his approach is risky."

In addition to rating the proposal "poor" overall, the TEB rated Aydin's proposal "poor" in the following individual evaluation areas: demonstrated knowledge of AN/TPS-59 or equivalent radar; interface requirements; and BIT/BITE (built in test/built in test equipment).

proposal "unacceptable" with regard to signal processing and "poor" overall, the report also stated "both proposals were judged technically acceptable."

The CRB reviewed the proposals along with the TEB reports and supporting documentation, applied the weighting factors previously designated for each evaluation category,⁷ and made its own assessment of Aydin's proposal. Based on this assessment, the CRB concluded that Aydin's proposal was technically unacceptable and recommended that the SSA eliminate Aydin's proposal from the competitive range and award the contract to GE. By memorandum dated July 14, the SSA accepted the CRB's recommendation, eliminating Aydin's proposal from the competitive range; on July 16, the contract was awarded to GE. This protest followed.

DISCUSSION

Aydin first protests that the agency unreasonably determined that its proposal was technically unacceptable. Relying on the fact that the TEB reports each contained the statement, "both proposals were judged technically acceptable," Aydin maintains that the contrary determination by the CRB and SSA lacked a reasonable basis.

At the hearing, the CRB Chairman testified that, as provided in the source selection plan, it was the CRB's responsibility to perform its own evaluation of proposals after considering the input of the TEB. Thus, the CRB's determination that Aydin's proposal was technically unacceptable was properly based on the CRB's independent assessment of Aydin's proposal after considering the TEB report and supporting documentation and applying the technical weighting factors established in the source selection plan. Tr. at 76-79.

The evaluation of technical proposals and the resulting decision as to whether certain proposals are within the competitive range are determinations primarily within the agency's discretion; we will review those determinations only to determine whether they were reasonable and

⁷At the hearing, the TEB Chairman testified that the TEB did not believe it was the TEB's function "to give a thumbs up or thumbs down" regarding technical acceptability of proposals. Tr. at 193.

⁸The weighting factors were established in the source selection plan prior to evaluation of the proposals; the TEB did not have access to the weighting factors during its evaluation.

consistent with the RFP's evaluation criteria. Childress & Assocs., B-248325, June 18, 1992, 92-1 CPD ¶ 534; Ronnoc, Inc., B-243729, Aug. 19, 1991, 91-2 CPD ¶ 163. A protester's mere disagreement with the evaluation does not establish that it was unreasonable. United HealthServ Inc., B-232640 et al., Jan. 18, 1989, 89-1 CPD ¶ 43. Further, a source selection official is not bound by the scoring of the technical evaluators, provided the ultimate decision has a reasonable basis and is consistent with the evaluation criteria. CRC Sys., Inc., B-207847, May 2, 1983, 83-1 CPD ¶ 462.

Prior to the hearing, the agency provided a point-by-point summary of the bases for determining that Aydin's proposal was technically unacceptable in which it noted that both TEB reports listed numerous flaws and omissions in Aydin's proposal. For example, with regard to signal processing, the first report stated:

"Fundamental analysis provided of the transmitter design changes is specious as indicated by changes in factors such as false alarm, receiver noise factor, signal-to-noise ratio, pulse integration and Swerling case with no rationale provided. The net result of the analysis is a transmitter power requirement that exceeds the system capabilities, yet no discussion of managing this considerable risk is identified.

"Blind speeds, range resolution, MTI [moving target indicator] and doppler processing tradeoffs [are] not addressed or given cursory consideration.

"Proposed concept of pulse doppler waveforms is not well defined. SET-15 impact of new waveforms [is] not described.

"Selected receiver specification requirements are not considered such as SCI [signal-to-clutter improvement] and angle error estimate."

The agency also pointed out that, following review of Aydin's responses to the discussion questions, the second TEB report's criticism of Aydin's proposal regarding signal processing was even more explicit, stating:

"Offeror's performance analysis using the RGCALC program to predict the improved radar range detection is faulty. Values were changed, e.g. false alarm, receiver noise factor, signal-to-noise ratio, pulse integration and Swerling case, that distort the result. The RGCALC program cited

in the proposal on page 24 was used to validate these performance analysis concerns. The program was run to evaluate the impact of changing the program parameters cited above and indicated the offeror's performance predicted was at least twice what it would be if the values were not altered. Further, the offeror failed to follow the basic instructions for using the RGCALC program for coherent processing of radars, a fundamental error that indicates the offeror's lack of radar knowledge. Despite these errors, the net result of the analysis is a transmitter power requirement that exceeds the system capabilities, yet no discussion of managing this considerable risk is identified. This would actually cause damage to the existing equipment.

"Fundamental basic radar design tradeoffs such as blind speeds, range resolution, MTI and doppler processing were not addressed or were given cursory consideration; therefore, not allowing the evaluators to fully assess the proposed design of these key signal processing features.

"Proposed concept of pulse doppler waveforms is not well defined. [Paragraph] 3.1.3.2.2 [of the proposal] states the waveform generator sends waveform/timing data to SET-15 without discussion of the effect of waveform changes on SET-15. Offeror is unaware of the proposed waveform design changes' impact on SET-15.

"Selected receiver specification requirements were not addressed such as Signal-to-Clutter Improvement (SCI) and Angle Error Estimate. These are important current system characteristics that must be maintained in the newly designed Signal Processor. Failure to maintain these requirements downgrades the system's ability to perform its current mission, as well as the new missions undertaken by this modification."

With regard to the overall risks posed by Aydin's proposal, the second TEB report found significant risks due to Aydin's "less than full understanding of the requirements," and concluded that "[o]verall, [Aydin] failed to demonstrate a reasonable probability of performing the technical aspects of the work."

At the hearing, the CRB Chairman discussed yet another reason the CRB independently determined that Aydin's proposal was technically unacceptable. He testified that the agency anticipated approximately 12,000 of the

25,000 technical drawings related to the AN-TPS-59 radar system would have to be changed due to the system modifications; Aydin's proposal anticipated changing approximately 500 drawings. Tr. at 217, 278-280. Aydin's own expert consultant testified that, after reviewing Aydin's proposal, he prepared a list of 13 technical questions that he believed the agency should have asked Aydin during discussions. Under cross-examination, Aydin's expert acknowledged that the questions he proposed sought missing information that was necessary to understand Aydin's proposed design. Tr. at 344.

We have reviewed Aydin's proposal, its responses to the discussion questions, and the documentation supporting the TEE's and CRB's evaluation of Aydin's proposals, including the individual evaluator worksheets. We have also considered the hearing testimony of Aydin's witnesses, including that of its expert consultant. It is clear from the record that the agency's evaluation, summarized above, accurately reflected deficiencies in Aydin's proposal and provided a rational basis for the determination by the CRB and the SSA that Aydin's proposal was technically unacceptable; further, this determination was consistent with the evaluation criteria established in the RFP. Aydin's contrary assertion is without merit.

Aydin next contends that the agency failed to conduct meaningful discussions. Specifically, Aydin maintains that, to the extent its proposal was considered "unacceptable" in the area of signal processing, the agency's discussion questions failed to reasonably lead Aydin to address that aspect of its proposal.

Procuring agencies are obligated to conduct written or oral discussions with all responsible offerors within the competitive range, advising them of deficiencies in their proposals so that they have an opportunity to satisfy the government's requirements. Federal Acquisition Regulation (FAR) § 15.610. However, the requirement for meaningful discussions does not mean that offerors are entitled to all-encompassing discussions, Aydin Corp., B-227817, Sept. 28, 1987, 87-2 CPD ¶ 306; nor are agencies required to "spoon feed" offerors with regard to every aspect of their proposals that receive less than the optimal rating, or to conduct successive rounds of discussions until all deficiencies are corrected. Ebasco Constructors, Inc. et al., B-244406 et al., Oct. 16, 1991, 91-2 CPD ¶ 341. Rather, agencies are only required to lead offerors into areas of their proposals needing amplification. Aydin Corp., supra.

Here, the agency provided Aydin with 20 questions regarding its technical proposal, at least 5 of which it asserts

should have elicited responses from Aydin which addressed the deficiencies in its proposal with respect to signal processing. In this regard, the agency first refers to question 2A, which asked Aydin to "[e]xplain the risks of performing real-time processing in the UNIX based data processor." The agency states that the signal processing portion of Aydin's proposal did not discuss where real time processing would be done and did not discuss risk management for signal processing. At the hearing, the CRB Chairman explained, "question 2A was asked, [in part] . . . to determine Aydin's understanding of the . . . current radar, because all real time processing is done in the analog signal processor and digital processor." Tr. at 92. Aydin's expert acknowledged that real time processing is "usually the basic signal processing processes that are involved in the radar." Tr. at 339.

Aydin's response to question 2A consisted of four paragraphs, one of which discussed signal processing aspects of its proposal.⁹ At the hearing, Aydin's expert consultant testified that question 2A would not have led him to address the signal processing deficiencies discussed in the TEB report, Tr. at 303; however, he could not explain why Aydin's response to question 2A, in fact, discussed aspects related to signal processing. The following colloquy occurred between agency counsel and Aydin's expert:

"Q. Did you look at the Aydin responses to [question 2A]?

"A. I did.

"Q. Can you explain to me why Aydin addressed the dedicated processor and the signal processor in this question if it didn't lead them to that area?

"A. This is [question] 2A you are referring to?

⁹At the hearing, Aydin's proposal manager testified, "we took the strategy deliberately not to expand beyond the questions that were [asked] [W]e cut a lot of verbiage out that wasn't responsive to the questions. We told our question responders not to respond beyond the scope of the question. We didn't want to hurt a position that we thought was acceptable." Tr. at 357-358. Although the agency placed no page limitation on responses to discussion questions, Aydin's entire response to the agency's 20 technical questions consisted of less than 23 pages of narrative, 2 pages of drawings, and one 4-page brochure regarding a piece of commercial equipment.

"Q. Right.

"A. I don't have a copy of their responses. I did read them. May I see the responses, please?

(A copy of Aydin responses is provided.)

"Q. I direct your attention to paragraph three on page one of [Aydin's responses to] question 2A.

"A. The one that starts with the word [']second[']?

"Q. Yes, the following paragraph.

(Pause)

"A. I can't answer your question." Tr. 339-340.

The agency also referred to question 2B as one which should have led Aydin to discuss specific signal processing problems in its proposal. This question stated:

"Explain maximum PRF [pulse repetition frequency] when using the 7000 micro-second pulse width shown in the proposal. Additionally, explain power supply loading with large pulse width."

The agency states that Aydin's fundamental analysis of its transmitter design indicated system changes to certain signal processing parameters without providing any rationale; those unexplained changes caused the agency concern regarding the feasibility of Aydin's proposed design in the area of signal processing. Among other things, the agency was concerned about the relationship between the power supply and pulse widths necessary for Aydin's proposed approach to signal processing. At the hearing, the CRB Chairman explained that question 2B was asked because:

"the TPS-59 upgrade requirements in the spec[ification] allow no modifications to the [radar] antenna. . . . So the only other place to make the [power] gains necessary to meet the requirements of the RFP are in signal processing."
Tr. at 93.

Again, Aydin's answer to this question, in fact, addressed general aspects of its signal processing design. The CRB Chairman testified:

"the answer [Aydin] gave discussed signal processing, so they understood from the question that was the area that the question was discussing, but again the answer that they gave to the question was just a cursory statement . . . [']we will use wave forms that will allow us to meet the effective radiated power, ['] period, without any specifics or backup." Tr. at 94-95.

Although Aydin's consultant believed the response to this question was more reasonably limited to discussing a very specific aspect of signal processing, he agreed that the question related to signal processing. At the hearing, he testified, "Question 2B does have to do with signal processing. It deals with the detection aspect." Tr. at 304.

Aydin complains that the questions posed by the agency did not specifically address the individual weaknesses and deficiencies enumerated in the TEB reports. The agency responds that such specificity was not required. At the hearing, the TEB Chairman explained that there were more than 300 separate technical requirements associated with the technical evaluation factors. Tr. at 147. The agency maintains that to have asked specific questions directed at every specific requirement relating to an evaluation factor would have constituted technical leveling.

In evaluating whether there has been sufficient disclosure of deficiencies, the focus is not on whether the agency described deficiencies in such intimate detail that there could be no doubt as to their identification and nature, but whether the agency imparted enough information to the offeror to afford it a fair and reasonable opportunity in the context of the procurement to identify and correct deficiencies in its proposal. Eagan, McAllister Assocs., Inc., B-231983, Oct. 20, 1988, 88-2 CPD ¶ 405. The degree of specificity necessary in disclosing deficiencies to meet the requirement for meaningful discussions is not a constant, but rather, varies according to the degree of specificity of the solicitation. Where a solicitation sets forth in great detail what is required of an offeror, discussions may be more general and still give an offeror a fair and reasonable opportunity to identify and correct deficiencies. Id.; Stewart-Warner Corp., B-235774, Oct. 5, 1989, 89-2 CPD ¶ 314.

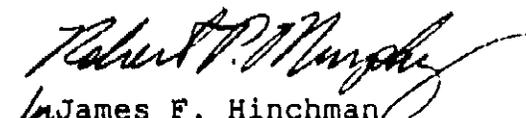
Here, the solicitation provided abundant technical specificity with regard to what offerors were required to propose. As part of the lengthy statement of work and system specification, the RFP identified more than 300 specific requirements offerors were expected to address. In addition to the specific information in the solicitation

itself, the Marine Corps made available a comprehensive technical library comprised of numerous volumes of technical manuals, drawings, and instructions related to the AN/TPS-59 radar system.

Although the agency could have provided discussion questions which, in essence, duplicated the discussion of specific weaknesses and deficiencies in the TEB reports, the agency reasonably believed that Aydin's answers to such leading questions would have provided little insight regarding the depth of Aydin's knowledge and expertise. We find that the agency reasonably led Aydin into the areas of its proposal which required amplification and provided Aydin an opportunity to demonstrate its knowledge and expertise with regard to those areas. Aydin's conscious election to limit the scope of its answers does not render the discussions less than meaningful.

Specifically, with regard to the evaluation area of signal processing, we find it telling that Aydin's responses to at least two of the discussion questions addressed its approach to signal processing. Although Aydin's responses failed to discuss this aspect of its proposal in any significant detail, this failure appears to have been the result of Aydin's conscious decision to limit the scope of its answers because it "didn't want to hurt a position that [it] thought was acceptable." Tr. at 357-358. Since Aydin's responses to the discussion questions demonstrate Aydin's recognition that its approach to signal processing was an area of concern to the agency, we find that the agency's discussions adequately led Aydin into this area.

The protest is denied.


for James F. Hinchman
General Counsel