



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Symetrics Industries, Inc.

File: B-250519.2

Date: March 25, 1993

Dudley E. Garner, Jr., for the protester.
Ronald K. Heuer, Esq., and Gary Theodore, Esq., Department
of the Army, for the agency.
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the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Protest against award to offeror who submitted higher priced, higher technically rated proposal is denied where the solicitation evaluation scheme gave greater weight to technical merit than to price, and the agency reasonably concluded that the technical superiority of the awardee's proposal was worth the additional cost.

DECISION

Symetrics Industries, Inc. protests the award of a contract to Sechan Electronics, Inc. under request for proposals (RFP) No. DAAB07-92-R-0001, issued by the Department of the Army, for production quantities of spare parts for the Fire Support Team Digital Message Device (FIST DMD). Symetrics challenges the agency's determination to award to Sechan at a price higher than that offered by Symetrics.

We deny the protest.

This solicitation was for the first procurement of the FIST DMD spare parts from a contractor other than Magnavox, the original manufacturer. The RFP, issued October 3, 1991, contemplated award of a fixed-price contract for 16 spare parts for the FIST DMD, first article testing of 3 items, and certain data. The spare parts include various circuit card and power supply assemblies and a display panel which requires complex electrical engineering to fabricate. The requirement also presents the potential need for extensive redesign of the parts due to obsolescence. The RFP was amended several times both before and after the January 2, 1992, closing date, to change quantities and to shift certain line items. It provided for award to be made on the

basis of the overall best value to the government, that is, based upon a determination of the most beneficial choice or mix among the award criteria, after an integrated assessment of which offeror's proposal best met the government's needs, and was most advantageous to the government.

The RFP listed four evaluation criteria--technical approach, price, total quality management (TQM), and management--in descending order of importance. Technical approach was of greater weight than each of the remaining factors, but of less weight than the three collectively. Technical approach was divided into four equally weighted subfactors: design/system performance; inspection/testing; manufacturing/production; and technical personnel. The various factors and subfactors were rated in one of four possible categories: "superior"; "acceptable"; "susceptible to being made acceptable"; and "unacceptable." Each factor and subfactor also was rated for risk: "minimal"; "low"; "moderate"; and "high."

Nine offerors submitted proposals. After an initial technical evaluation, six proposals, including those of Symetrics and Sechan, were included in the competitive range. In March, the Army conducted written discussions with each offeror. With regard to Symetrics, the evaluators identified four matters concerning Symetrics's quality assurance, lack of certain in-house manufacturing and automatic test equipment (ATE), lack of surface mount capability, and lack of validation, verification, and test (V&V) of certain software programs.¹ Symetrics's response to the discussion questions were reviewed by the evaluators and found acceptable. Subsequently, in a June 5 response to amendments 0004 and 0005, Symetrics provided additional information concerning its ATE and V&V effort. The evaluators reviewed this information, but concluded that it did not change their rating of Symetrics's proposal.

Overall, the evaluators found Symetrics's proposal "acceptable" with a rating of "moderate" risk in the technical and management factors, and "acceptable" with a "low" risk rating for the TQM factor. The evaluators found Sechan's proposal "acceptable" with "minimal" to "low" risk

¹V&V refers to the techniques used to assure the quality of software developed for a system. "Validation" seeks to determine the correctness of the final software with respect to user needs and requirements. This is generally accomplished by "verification," which consists of the demonstration of consistency, completeness, and correctness of the software with respect to the requirements of the life cycle stage. This demonstration is achieved through "testing" of the software.

for the technical factor; "acceptable" with "low" risk for management; and "superior" with "low" risk for TQM. Best and final offers (BAFOs) were solicited from the competitive range offerors in August 1992. Symetrics's BAFO of \$780,660 was the lowest evaluated price, and Sechan's BAFO of \$1,114,449 was third lowest.

Prior to making the award determination, the contracting officer reviewed the evaluators' written ratings and comments and discussed them with the evaluators. The contracting officer found that Sechan's and Magnavox's proposals represented significant advantages over the remaining proposals, but concluded that Magnavox's proposal, though technically superior to Sechan's, was not worth the additional \$2 million cost premium associated with it. While Symetrics and another offeror proposed lower prices than Sechan, the contracting officer determined that the technical advantages presented by Sechan's proposal were worth the additional cost. On September 9, 1992, the contracting officer awarded Sechan the contract at a price \$333,839 higher than Symetrics's price. After receiving notice of the award and a debriefing, Symetrics filed this protest.

Symetrics argues that the Army's decision to award the contract to Sechan was arbitrary and capricious.² According to Symetrics, its technically acceptable proposal, at a price 42 percent lower than the awardee's, should have received the award. The Army responds that its determination of best value was based on a proper analysis of technical and price considerations in accordance with the RFP's evaluation criteria and, thus, its award to Sechan was reasonable and proper. We agree.

In a negotiated procurement, the government is not required to make award to the lowest priced, technically acceptable offeror unless the RFP specifies that price will be the determinative factor for award. General Servs. Eng'g, Inc., B-245458, Jan. 9, 1992, 92-1 CPD ¶ 44. Agency officials have broad discretion in determining the manner and extent to which they will make use of technical and price evaluation results. Price/technical trade-offs may be made; the extent to which one may be sacrificed for the other is governed by the test of rationality and consistency with the

²In its original protest, Symetrics also contended that the contracting officer had been pressured into making the award by his superiors. The allegation was denied by the contracting officer in the agency report, and the protester does not address it in its comments to that report. Accordingly, this protest ground is abandoned. See Reach All, Inc., B-229772, Mar. 15, 1988, 88-1 CPD ¶ 267.

established evaluation factors. Id. Where, as here, the RFP indicates that technical considerations are more important than cost considerations, award to a technically superior, higher priced offeror is proper where the record shows that the price premium was justified in light of the proposal's technical superiority. Dynamics Research Corp., B-240809, Dec. 10, 1990, 90-2 CPD ¶ 471. In this case, the record supports the contracting officer's decision to award the contract to Sechan as the technically superior offeror, even though Sechan proposed a higher price than Symetrics.

In reaching his decision to award the contract to Sechan, the contracting officer relied on the written technical evaluations and risk assessments of the evaluators as well as oral briefings from the evaluators. He also considered that under the RFP technical considerations were weighted more heavily than price.

While both offerors were rated as "acceptable" for the technical factor, at the subfactor level, Sechan's and Symetrics's proposals received different ratings and risk assessments. For example, while Symetrics was rated as acceptable in all four subfactors with a rating of "low" to "moderate" risk, Sechan was evaluated as "superior" in the subfactors of design/system performance and technical personnel with a rating of "minimal" to "low" risk. In this regard, the evaluators found that Sechan had past production experience with the FIST DMD's predecessor, and other relevant experience. They found that Symetrics, while making a "creditable attempt" to obtain obsolete and "unobtainable" parts, raised doubts about its ability to obtain such parts which could pose problems during production. Symetrics's proposal also failed to provide any proof that it had initiated and completed stated design changes.

While both offerors were rated as "acceptable" "with low" risk for TQM, the evaluators found Symetrics's proposal very generalized in parts, leaving out specific details. For Sechan, the only weakness noted was the offeror's failure to include excerpts from its quality manual to support cited policies and procedures. Had these been included, the evaluators indicated that they would have rated Sechan as "superior." With regard to the management factor, Sechan's proposal was rated "superior" with "minimal" risk, while Symetrics's was rated as "acceptable" with "moderate" risk. The evaluators noted that over the past 6 years, Sechan had successfully met or accelerated contract deliveries. Based

on reports of Symetrics's delinquent contract deliveries, the evaluators recommended that a preaward survey be conducted if Symetrics were considered for award.³

Overall, the contracting officer determined that Sechan's technical proposal instilled a high degree of confidence in successful contract performance. This finding was based on Sechan's past performance experience in producing spares for a predecessor to the FIST DMD and Sechan's demonstrated ability to redesign and work around problems of a complex nature. These problems were considered likely to arise from the unproven technical data package to be provided for items previously only manufactured by Magnavox. Sechan's TQM proposal demonstrated that it had the personnel, policies, and facilities in place, ready to dedicate to the effort and its management proposal fully supported Sechan's ability to meet the schedule and performance requirements. In sum, the contracting officer found that Sechan offered manufacturing and engineering capabilities comparable to those offered by Magnavox, at a much lower price.

With regard to Symetrics's proposal, the contracting officer found that the lower price was the only advantage offered. In particular, the contracting officer found that, based on Symetrics's technical proposal, the protester presented a serious, undesirable risk that it would fail to timely accomplish the anticipated, non-recurring engineering

³Symetrics's "moderate" risk rating was based in part upon a report from the agency's production surveillance office which stated that the contractor had a history of marginal performance, with most contracts requiring several delivery schedule modifications. The Defense Contract Management Operations Office in Orlando, Florida, noted that 5 of Symetrics's 20 contracts were delinquent due to contractor causes. Symetrics challenges the accuracy of these assessments, stating that at the time the information was gathered, early 1992, the contractor only had eight contracts with one in delinquent status. The contracting officer states that regardless of the accuracy of this information, the evaluators' concerns over Symetrics's past performance were given very little weight in his best value determination. According to the contracting officer, even if Symetrics's past performance were evaluated as highly as Symetrics contended, the protestor's proposal would not have been selected under the best value analysis. In short, the contracting officer concluded that past performance would only have been a distinguishing subfactor if he otherwise considered Symetrics for award. Under these circumstances, the evaluators' consideration of allegedly erroneous information was without effect.

efforts associated with circuit analysis, automated testing, and redesign for parts obsolescence. He also considered that even if timely, Symetrics's efforts would be "merely adequate," resulting in short-term, less than optimal solutions to problems, in contrast to the thoroughgoing effort proposed by Sechan. In view of the likelihood of back orders for parts, delays in delivery were also considered to be likely to result in urgency awards to Magnavox. Magnavox's higher prices and the circumstance of an urgency purchase would wipe out much, if not all, of the potential \$300,000 savings associated with an award to Symetrics. In view of the risks inherent in Symetrics's proposal, the contracting officer concluded that the potential savings offered by Symetrics did not justify giving up the value offered by Sechan in the non-price factors.

Given the documented technical superiority of Sechan's proposal and the risk associated with the protester's proposal, we have no basis to question the reasonableness of the contracting officer's determination that Sechan's proposal offered the best value to the government. While the price difference of 42 percent is great; we do not believe that alone is reason to question the determination. See Dynamics Research Corp., supra.

Symetrics also challenges the contracting officer's conclusions, arguing that neither he nor the evaluators gave its proposal credit for various enhancements, and that they failed to consider Symetrics's June 5 additional information which Symetrics asserts should have resolved the perceived weakness in its ATE and V&V effort. We have reviewed the evaluations and the agency report and we conclude that Symetrics's arguments are without merit.

Symetrics notes that it proposed to use state-of-the-art ATE to meet the accelerated delivery schedule; to develop alternate sources for certain Magnavox components; and to use a more demanding quality standard, MIL-Q-9858A, instead of the required MIL-I-45208. The contracting officer explains, and the evaluation report reflects, that Symetrics in fact received credit for these "enhancements." However, Sechan proposed the same or better enhancements, and thus there was no relative advantage in Symetrics's proposal.

With regard to its June 5 additional information, Symetrics observes that the evaluation report apparently was completed prior to the agency's receipt of this information, and that there is no indication in the report that the evaluators ever considered it. The record establishes that the evaluators were concerned that Symetrics had not yet obtained the ATE to be used in contract performance and had left unclear how it intended to validate its functional test

software.⁴ In its response to discussion questions, Symetrics provided an expanded list of the ATE it was considering for purchase by early June and advised that it intended to be ready to use this ATE for the FIST DMD contract. Regarding V&V, Symetrics acknowledged the need to meet the applicable test requirements document and advised that it would ensure that the original test program correlated to its new program. However, it failed to state any particular techniques that it would use for V&V of the new software. From this, the evaluators concluded that Symetrics intended to have either the government or an independent contractor perform the actual V&V. The evaluators viewed as weaknesses Symetrics's current lack of ATE and related experience, and its failure to provide a detailed plan as to how it would verify the completeness and correctness of the functional test programs it would develop and use.

Symetrics June 5 letter advised that it had purchased the ATE and expected delivery shortly. While discussing V&V, the letter did not provide any further information to answer the evaluators' concerns. According to the contracting officer, in the absence of details regarding V&V, the fact that Symetrics had finally obtained the ATE did not change the evaluated weakness in Symetrics's proposal. Thus, the written evaluation report was not changed to reflect the receipt and evaluation of the June 5 letter. We believe that this explanation is reasonable and supported by the record. We find no basis to conclude that the evaluators failed to consider the June 5 letter, or that they otherwise unfairly evaluated Symetrics's proposal.

The protest is denied.



for James F. Hinchman
General Counsel

⁴While performance of V&V was not required, offerors were required to provide plans to validate system performance as it applied to technical and quality requirements in the RFP. The only existing functional test software had been furnished by Magnavox, and it was not clear how reliable it was. Accordingly, the agency sought assurances in the offerors' proposals that new functional test software was valid. Sechan and other offerors did provide such assurances.