



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

Decision

Matter of: Engineered Systems Company

File: B-252717.3

Date: September 28, 1993

Michael T. Janik, Esq., and Mark J. Meagher, Esq., McKenna & Cuneo, for the protester.
Wayne A. Keup, Esq., Dyer, Ellis, Joseph & Mills, for Lake Shore, Inc., an interested party.
Demetria Carter, Esq., and Rose Trafton, Esq., Department of the Navy, for the agency.
Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

In reviewing protests concerning the evaluation of proposals, the General Accounting Office will examine the agency's evaluation to ensure that it had a reasonable basis. The fact that a protester does not agree with the agency's evaluation does not render the evaluation unreasonable.

DECISION

Engineered Systems Company (ESCO) protests the award of a contract to Lake Shore, Inc. under request for proposals (RFP) No. N68335-92-R-0150, issued by the Department of the Navy for a shore based transportable arresting gear system.¹ ESCO principally contends that the Navy misevaluated proposals by improperly downgrading its proposal in certain technical areas and by failing to downgrade Lake Shore's proposal in other areas.²

¹The system, designated M-29, consists of two mobile arresting gear units, each of which is capable of being installed on either side of a short runway. These mobile arresting gear units are connected by a cable and provide arrestment capability for all tactical Marine and Navy aircraft.

²ESCO filed an initial protest on March 19, 1993. After receipt of the report, ESCO subsequently filed two
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We deny the protest.

The Navy issued the solicitation on May 5, 1992, seeking proposals for a fixed-price incentive type contract for a basic quantity of pre-production systems with technical data, and options for production quantities and additional technical data. The RFP contemplated that the pre-production systems would undergo various acceptance tests and that the option for the production quantities would be exercised upon successful completion of these acceptance tests. The RFP advised that award would be made to the offeror whose proposal offered the greatest value to the government in terms of technical merit and price, rather than to the proposal offering the lowest price. The RFP contained the following technical evaluation factors, listed in descending order of importance: (1) technical approach (five subfactors); (2) logistics (three subfactors); (3) production capability (four subfactors); (4) corporate experience (five subfactors); and (5) life cycle cost considerations. Concerning price, the RFP stated that price was not as important for evaluation purposes as technical merit; however, the RFP stated that as offerors became more equal technically, the relative importance of price in the selection of the awardee would increase.

By the August 3, 1992, closing date for receipt of initial proposals, the Navy received three proposals, including proposals from ESCO and Lake Shore. The agency appointed a Technical Evaluation Committee, Cost Evaluation Committee, and Life Cycle Cost Evaluation Committee, which reported to a Source Selection Advisory Council (SSAC). The SSAC, in turn, reviewed the various committees' findings and made recommendations to the Source Selection Authority (SSA). Proposals were rated using an adjectival assessment of highly acceptable, acceptable, unacceptable but capable of being made acceptable, and unacceptable. All factors and subfactors were rated for adequacy of response and feasibility of approach (risk). After evaluation of the initial proposals, ESCO and Lake Shore were both found to be within the competitive range; the third offeror was found to be technically unacceptable, and its proposal was excluded

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additional supplemental protests which were consolidated with its initial protest. We received two subsequent reports from the Navy, and ESCO eventually filed two sets of comments on the Navy's reports. The issues discussed in this decision are those that remain after the final set of filings from the parties in the consolidated protest. See Contract Servs., Inc., B-251761.4, July 20, 1993, 93-2 CPD ¶ 40; Kaiserslautern Maintenance Group, B-240067, Oct. 12, 1990, 90-2 CPD ¶ 288.

from further consideration. Extensive discussions were then conducted, and ESCO and Lake Shore made various revisions in their technical proposal prior to the agency's request for best and final offers (BAFO). Since both offerors were technically acceptable based on their previous revisions, the only information submitted by both offerors in their BAFOs was pricing information.

After receipt of BAFOs, the three evaluation committees conducted final evaluations of proposals. In the most important factor, technical approach, Lake Shore received a rating of acceptable with low risk from the Technical Evaluation Committee, while ESCO received a rating of acceptable with medium risk. Under the second factor, logistics, both offerors received overall ratings of acceptable with low risk even though ESCO received a medium risk rating with respect to one subfactor. Under the third factor, production capability, both offerors received the same rating of highly acceptable with low risk except in the subfactor of quality assurance program, for which ESCO received a rating of acceptable with medium risk while Lake Shore received a rating of highly acceptable with low risk. Under the fourth factor, corporate experience, ESCO and Lake Shore both received overall ratings of highly acceptable with low risk. Finally, under the fifth technical evaluation factor, life cycle cost considerations, the agency determined that Lake Shore's proposal represented a savings in overall life cycle costs of approximately \$5 million as compared to ESCO's proposal.

The Technical Evaluation Committee rated Lake Shore's overall technical proposal as acceptable with low risk and ESCO's overall technical proposal as acceptable with medium risk; the committee concluded that Lake Shore's proposal was technically superior to ESCO's proposal. Further, Lake Shore's total proposed price, including options, was \$33,182,899, while ESCO's proposed price, including options, was only 2.5 percent lower at \$32,365,908. After reviewing the findings of the committees, the SSAC recommended to the SSA that award be made to Lake Shore. The SSA agreed that Lake Shore's proposal represented the greatest value to the government; award was therefore made to Lake Shore. This protest followed.

As stated above, ESCO essentially alleges that the agency misevaluated ESCO's and Lake Shore's proposals in certain technical areas. We will examine these areas in turn. Concerning our standard of review, we will examine an evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria. See Space Applications Corp., B-233143.3, Sept. 21, 1989, 89-2 CPD ¶ 255. The determination of the merits of proposals is primarily a matter of administrative discretion which we will not

disturb unless the evaluation was arbitrary, See Realty Executives, B-237537, Feb. 16, 1990, 90-1 CPD ¶ 288. The fact that a protester does not agree with the agency's evaluation does not render the evaluation unreasonable, See Tracor, Inc., B-250716.2, Feb. 23, 1993, 93-1 CPD ¶ 165.

ESCO complains that the Navy improperly evaluated ESCO's proposed use of an "E-28" nylon tape as presenting greater risk than Lake Shore's proposed use of "M-21" nylon tape.³ ESCO argues that Appendix 3 of the solicitation, entitled "Lessons Learned," identified a dangerous problem with arresting gear known as "tape tuck"⁴ and that Appendix 3 also described conditions that have been identified by the Navy as causes of tape tuck with the M-21 arresting gear system. In contrast, ESCO notes that Appendix 3 states that "[h]istorically, tape tuck has not been a problem with the E-28 A/G." ESCO admits that it did not offer existing E-28 tape but proposed to modify it for this requirement.⁵ Nevertheless, ESCO argues that since Appendix 3 described tape tuck problems with the nylon tape of the M-21 arresting gear, which Lake Shore proposed, ESCO should have been higher rated for its modified E-28 nylon tape which was described by Appendix 3 as not having had problems with tape tuck. We disagree.

³The nylon tape on the arresting gear system is attached at one end to a reel on the arresting gear with the other end attached to a steel cable running across the runway. The tail hook on a landing craft catches the steel cable, reels out the nylon tape from the arresting gear at a calibrated tension, and brings the aircraft to a stop. The M-21 nylon tape has been used by the Navy for many years.

⁴Tape tuck occurs during the initial phase of arrestment. The tape, instead of spooling off the reel, jumps between the tape stack and the upper or lower tape reel flange. This usually causes damage to the flange before the tape fails in tension due to binding around the tape reel hub.

⁵The agency states, and the record shows, that ESCO proposed using an E-28 tape with a new coating which has not been proven. When asked to provide documentation to support its contention that the new coating could withstand 175 arrestments, ESCO could not provide supporting data. Additionally, the E-28 tape has historically been used for minimum 225 feet arrestment spans while the M-29 arrestment gear requires arrestment spans from 70 to 225 feet. The agency downgraded ESCO's approach as presenting some risk because the "nylon purchase member proposed by ESCO [has] no verifiable data to support the 175 arrestment life [so that] the use of this unproven component was evaluated with risk."

Appendix 3 of the solicitation does not purport to be other than a historical summary ("Lessons Learned") provided as background information to offerors.⁶ The Navy reports that during the period from 1968 to 1973, the agency undertook a safety program to reduce or eliminate the frequency of occurrence of tape tuck on the M-21 arresting gear. A special high friction walnut shell coating was developed which reduced the amount of slip between the layers of tape, especially when the tape was wet. The present M-21 tape has the same walnut shell coating which proved successful during the program. According to the agency, this improved tape, along with other modifications, virtually eliminated the tape tuck problem from the M-21; no instances of tape tuck have been reported since the safety program was completed.⁷ We therefore conclude that it was rational for the agency to rate Lake Shore's proposal, which offered a currently proven M-21 nylon tape with the walnut shell coating, as presenting somewhat less risk than ESCO's proposed modified E-28 nylon tape.

Next, ESCO argues that while the agency found that Lake Shore's proposal contained "off-center" engagement computer simulation capability (off-center aircraft arrestment simulation), the agency improperly found that the "ESCO computer performance model [did] not presently have the ability to model the RFP required cable dynamics and off-center engagement conditions."⁸ ESCO argues that it

⁶According to the agency, this information was simply given to offerors "to insure that offerors did not repeat the mistakes of the past."

⁷ESCO has been developing a modified, short span, nylon tape (E-28 type) since 1989, 2 years before publication of Appendix 3. Thus, there is no evidence that ESCO was misled into not offering a proven M-21 nylon tape by the information in Appendix 3. Indeed, the record shows that ESCO made the decision to use an E-28 type tape not because of the information contained in Appendix 3, but because it had developed the tape and had a long history with that tape. Further, ESCO was aware of the Navy's previous tests on the tape tuck phenomenon associated with the earlier M-21 tape as evidenced by statements in its proposal. ESCO itself earlier conducted testing on tape tuck and presented more detailed information about the problem in its proposal than the Navy did in Appendix 3.

⁸The RFP's statement of work (SOW) required as a contract deliverable a computer performance model capable of simulating the performance characteristics of the contractor's arresting gear. The adequacy of each offeror's
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did state in its proposal that it had off-center engagement simulation capability and that the Navy therefore unreasonably downgraded its proposal for its alleged failure to do so. We have reviewed ESCO's proposal and the evaluation committee's findings and conclude that the agency reasonably determined that ESCO, unlike Lake Shore, was not proposing a currently available system with this capability.

In its proposal, ESCO clearly stated that "[o]ff-center . . . engagements with deck pendant ship on aircraft recovery hook will be incorporated as an option in the program." (Emphasis added.) ESCO explained in detail its computer model and listed 23 parameters which "the current computer model" could attain in calculating arresting gear performance. The off-center tailhook engagement was not a listed parameter. Moreover, ESCO stated in its proposal its intent to hire a particular subcontractor because of that subcontractor's extensive experience in computer simulation analysis with "on-center and off-center arrestment conditions." While ESCO did briefly mention in its proposal that it had earlier developed a computer model with this capability for a different requirement for NASA, ESCO provided no discussion on the relationship or similarity of this NASA arresting system to the M-29 computer model. We therefore conclude that the agency reasonably determined that ESCO was proposing to develop at some time in the future this capability. While an existing computer model was not necessary to find an offeror acceptable, we think that the agency reasonably evaluated Lake Shore's existing system as presenting somewhat less risk than ESCO's proposed developmental approach.⁹

In its supplemental protest, ESCO contends on "information and belief" that Lake Shore proposed to use M-21 arresting gear components for the M-29 system, including the M-21 anchoring system which does not satisfy the design strength, maximum installation time or safety requirements imposed by

⁸ (...continued)

computer model was analyzed under a subfactor of the technical approach evaluation factor.

⁹In its comments, ESCO also argues for the first time that the agency should have discussed this matter with the firm. However, ESCO's proposal essentially stated as a fact that it did not presently have this capability and would develop it in the future. Thus, any risks the agency perceived flowed from ESCO's basic technical approach in fulfilling this requirement. Since ESCO stated that it did not currently have this capability, we fail to see what the agency should have discussed with the firm. See generally Miller Bldg. Corp., B-245488, Jan. 3, 1992, 92-1 CPD ¶ 21.

the solicitation's performance specifications. This allegation was filed as a conditional protest ("if [Lake Shore] in fact proposed an M-21 anchor"); the protester asserted that the Navy improperly disregarded the anchoring system requirements in evaluating Lake Shore's proposal.

The short answer is that Lake Shore did not propose the current M-21 anchoring system. The current system is comprised of cruciform stakes, earth anchors, stake/anchor aprons, and connecting braces. The anchoring system proposed by Lake Shore employs the same cruciform stakes and earth anchors, but the aprons and method of attachment to the arresting gear chassis is of its own design.¹⁰ The agency states, and the record shows, that Lake Shore's configuration does not exceed the recommended load limits. In regard to installation time, the agency determined that Lake Shore's anchoring system could be installed within the required 4 hours by 16 personnel.¹¹ In sum, despite the protester's speculations about Lake Shore's system, the record supports the agency's technical evaluation which found Lake Shore's proposal to be acceptable.¹²

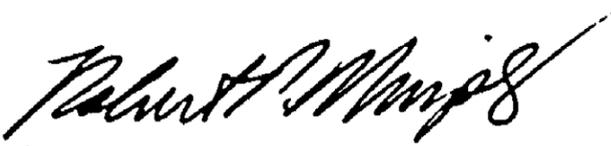
¹⁰We cannot reveal the exact configuration or parameters of the Lake Shore system because it is highly proprietary. ESCO admits that its allegations about the supposed deficiencies of the Lake Shore system are based on "guesses" of what Lake Shore's system can or cannot do. Except for these bare allegations by the protester, we find nothing in the record to establish that the agency unreasonably found Lake Shore's proposed system to be acceptable.

¹¹The protester alleges that the agency unreasonably concluded that Lake Shore could meet the installation time based on Lake Shore's statements in its proposal concerning installation of its system on sand, silt and clay soil (CBR 4 soil). The protester notes that installation could occur under other soil conditions which were stated in the solicitation and for which Lake Shore provided no data. The Navy's technical personnel, however, performed a technical analysis of Lake Shore's unit and equipment, including Lake Shore's proposed use of hydraulic pumps and jack hammers, and concluded that the installation time requirements could be met. The record supports this conclusion.

¹²In its second supplemental protest, ESCO also alleges that Lake Shore's proposal failed to meet the solicitation's tape runout requirements which specified, for example, that field spans of 225 feet have a tape runout of 1,000 feet and that field spans of 100 feet have a tape runout of 850 feet. ESCO alleges that Lake Shore's runout capabilities are less than those required by the solicitation. The agency states,
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In addition to the evaluation areas described above, the Navy also found that ESCO's proposal was deficient in other areas which ESCO has not challenged. For example, ESCO failed to demonstrate its full comprehension of or experience with MIL-Q-9858, the quality assurance program required by the solicitation. This was noted as a risk by the agency. Further, in the area of computer aided logistics support (CALS), ESCO's proposal was judged weak because it did not contain specifics in this procedure and showed a lack of experience with CALS. This was also noted as a risk by the agency and has not been challenged by the protester. As another example, the agency found that ESCO demonstrated little experience in pollution prevention or hazardous material minimization--ESCO simply failed to demonstrate its understanding. Given the slight price difference between the two offerors (and Lake Shore's lower life cycle costs which ESCO also has not challenged), we think the agency reasonably concluded that Lake Shore's proposal represented the greatest value to the government. Nothing in the record shows otherwise.

The protest is denied.


 for James F. Hinchman
 General Counsel

¹² (...continued)

and we have confirmed by our review of Lake Shore's proprietary data, that Lake Shore proposed a unique new mechanical design, which requires less tape to fully perform the tasks. Lake Shore provided substantiating data and graphs to the Navy which demonstrated its ability to meet the requirements with lesser runout lengths. ESCO also alleges that Lake Shore's system does not meet the specification establishing a 5-foot height for the system. The record reasonably shows that the protester knew this basis of protest after award in March 1993, but did not raise this matter until its second supplemental protest on July 2, 1993. We therefore consider it to have been untimely filed. See 4 C.F.R. § 21.2(a)(2) (1993). In any event, because of the lesser tape runout of Lake Shore's system, the record shows that Lake Shore met the height requirements.