



Comptroller General
of the United States

521410

Washington, D.C. 20548

Decision

Matter of: Simms Industries, Incorporated

File: B-252827.2

Date: October 4, 1993

James R. Simms for the protester.
Dean R. Berman, Esq., Department of the Navy, for the agency.
Robert C. Arsenoff, Esq., and Charles W. Morrow, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Contracting agency reasonably downgraded protester's technical proposal where the record shows that the agency determined that the proposal did not adequately respond to the agency's requirements under the solicitation's technical evaluation criteria and the protester, whose protest only reflects its disagreement with the evaluation, has not shown the evaluation to be unreasonable.
2. Contracting agency's award of a contract to the highest technically rated offeror with the highest evaluated cost is reasonable and consistent with the solicitation's evaluation criteria where the awardee was rated technically superior under every technical evaluation criterion including the most important, cost was the least important factor, and the agency determined that the technical superiority of the awardee justified the higher cost.

DECISION

Simms Industries, Incorporated protests the award of a contract to Systems Planning and Analysis, Inc. (SPA), under request for proposals (RFP) No. N00030-93-R-0057, a total small business set-aside, issued by the Department of the Navy, Strategic Systems Programs (SSP), for engineering and program support services. Simms objects to the Navy's evaluation of technical proposals.

We deny the protest.

The RFP was issued by the Navy on November 12, 1992, to procure engineering and program support services in support

of the Navy's Theater Ballistic Missile Defense (TBMD) program on a cost-plus-fixed fee (CPFF) level of effort basis for a base period from March 1, 1993, to September 30, 1993, with 4 option years. The RFP required the contractor to perform assessments and studies on behalf of the SSP, to provide engineering, programmatic, and analytical support, and to provide certain contract data.

Section L of the RFP required offerors to submit in separate volumes in complete detail both a technical and a cost proposal. The RFP required offerors' technical proposals to contain information under a variety of headings, including their solution to three critical sample problems, which formed the basis for the technical evaluation. Under the technical evaluation criteria the Navy evaluated solutions to three sample problems as well as technical approach, personnel, management approach, corporate experience and facilities. The RFP advised that sample problem solution was the most important factor, technical approach was next, with the remaining factors being less but equally important.¹ The RFP required the cost proposals to be analyzed and evaluated for reasonableness and realism.

The award was to be made to the offeror whose proposal was considered most likely to satisfy the requirements of the government, cost and other factors considered. As between the relevant factors, the RFP stated that technical criteria were more important than cost and that while cost would be evaluated, technical capability was of paramount importance. Also, the RFP advised that the government might award on the basis of initial offers received without discussions.

The Navy received eight proposals in response to the RFP on the December 30 closing date, which included Simms's and SPA's proposals. The technical proposals were evaluated by a Technical Proposal Evaluation Panel (TPEP). The CARP assigned technical scores to the TPEP's evaluation and evaluated cost proposals. Simms's technical proposal, which was ranked seventh, received a technical score of 335, a total of 49 percent of the 680 maximum available points. SPA's proposal received 570 points, making it the highest ranking proposal with 83 percent of the points.² Simms had

¹To this effect, the RFP's source selection plan assigned corresponding points to these criteria of 300, 140, 60, 60 and 60, which the Navy's Contract Award Review Panel (CARP) utilized to differentiate technical quality in the evaluation of proposals.

²Under the various categories Simms received 134 points for sample problems, 60 points for its technical approach,

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the lowest evaluated cost, \$11,001,981, while SPA had the highest at \$15,817,225. While the CARP determined SPA's proposed cost to be reasonable, the Navy determined that additional information would be necessary before it could ascertain the reasonableness of Simms's proposed cost.

Based upon the results of the evaluation, the CARP recommended award of the contract to SPA without discussions. This recommendation was based upon the grounds that SPA scored the highest in all evaluation categories, was rated significantly higher than any other offeror under two of the most significant criteria--sample problems and technical approach--and had proposed a labor mix with more experience than did the next two highest-scoring offerors. In accordance with the RFP, the CARP determined that the significant technical advantage of SPA justified award to SPA at its higher proposed CPFF. The Source Selection Authority concurred and the Navy made award to SPA on March 18, 1993. Simms filed this protest against the evaluation of proposals on March 26.

Simms's protest is twofold: It argues that the Navy miscalculated the information contained in its proposal and that the Navy was unjustified in making award to SPA at a higher CPFF. Simms asserts that the agency's evaluation was based upon an apparent lack of understanding of its proposal. Further, Simms questions the evaluation of SPA's technical proposal based upon what it characterizes as a perception in the missile community that SPA lacks experience.

Evaluating the relative merits of competing proposals is a matter within the discretion of the contracting agency since the agency is responsible for defining its needs and the best method of accommodating them. PAI Corp., B-253203.2; B-253203.3, Aug. 26, 1993, 93-2 CPD ¶ _____. In reviewing an agency's evaluation, we will not reevaluate proposals but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria. Id. The fact that the protester disagrees with the agency does not itself render the evaluation unreasonable. Further, in a negotiated procurement, there is no requirement that award be made on the basis of lowest price unless the RFP so specifies. Rather, price/technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the test of

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42 points for personnel, 31 points for management approach, 41 points for corporate experience, and 27 points for facilities. For the same categories, SPA received point scores of 261, 110, 50, 50, 51 and 48.

rationality and consistency with the established evaluation factors. An award to an offeror with a higher technical ranking and higher price is proper so long as the result is consistent with the evaluation criteria and the procuring agency has reasonably determined that the technical difference is sufficiently significant to outweigh the price difference. Michael C. Avino, Inc., B-250689, Feb. 17, 1993, 93-1 CPD ¶ 148.

We have carefully reviewed the record in the context of the protester's voluminous arguments and we find no legal basis upon which to object to the selection of SPA.³ While Simms argues that its low technical score was due to the Navy's misunderstanding of the merits of its proposal, the Navy reports and the record confirms that Simms received a low technical score because the TPEP determined that Simms's proposal contained a myriad of technical weaknesses. The Navy reports that Simms's responses to the sample problems failed to adequately demonstrate an ability to conduct good technical trade-off studies; failed to adequately explain the use of analytical tools; failed to adequately address the milestones review process, global protection against limited strikes, and the Department of Defense (DOD) acquisition process; and failed to define how problems would be resolved. Further, the Navy reports that Simms's technical approach was too general and that its personnel had limited interceptor engineering and analysis experience; that its management approach failed to adequately define division integration and subcontractor review; that its corporate experience was lacking in technical support functions; and that its response to facilities including computing/data processing identified limited in-house operational software and gave no indication of facilities dedication.

In contrast, the Navy reports that SPA's technical proposal was rated highly because the TPEP determined that SPA's proposal contained no major weaknesses. The Navy reports that SPA's responses to sample problems demonstrated an insightful understanding of the issues, complications, and interfaces associated with the Navy TBMD program management decision making process, including responsibilities under the DOD acquisition process. It reports that SPA's technical approach demonstrated a clear understanding of the technical and political issues and that SPA's proposed personnel included the most highly educated and

³In response to the protest, the Navy filed a lengthy detailed justification explaining why Simms's proposal received a low technical score, to which Simms filed 19 specific objections to in its comments. As will be discussed below, we find that Simms has only expressed its disagreement with the technical evaluation.

knowledgeable people. The Navy reports that SPA's management approach offered a truly responsive management structure with short lines of communication and direct access to high levels in the corporation and that its corporate experience included experience with the TBMD program and with the SSP.

Based upon our review of the technical proposals, the evaluation documents, and the protester's arguments, we find that Simms's protest is nothing more than its disagreement with the evaluation of proposals, which is insufficient to legally contest the evaluation.⁴ Our review confirms that the Navy evaluated proposals reasonably and in accordance with the RFP criteria.

For example, in offering a solution to sample problem I, Simms proposed to address cueing problems by considering the contribution of land based cueing sensors. Simms stated that SPY-1 radar controls the entire engagement, with cueing from offboard sensors in space and on airborne platforms. The Navy reports that this is a very generic response that could have been made by individuals with little understanding of the TBMD technical problem. The Navy advises that an adequate response should have discussed some of the complex issues associated with cueing such as recognition of the type of cueing information required (covariance matrix information) for SPY-1 acquisition; the requirement for up-linked data and further refinement of the cue; the requirement for providing discrimination information to the interceptor/Kinetic Kill Vehicle (KKV); the requirement that the interceptor/KKV be able to do extensive tracking; and other important cueing problems. Simms' rebuttal to this is that a generic response "may be appropriate" for a cost effective approach. The RFP, however, specifically advised offerors that proposals had to demonstrate an understanding of the requirements and advised that the solution to the sample problems should demonstrate knowledge of the subject, management capabilities, and technical and programmatic expertise. The Navy therefore had a reasonable basis for downgrading Simms's proposal in this area.

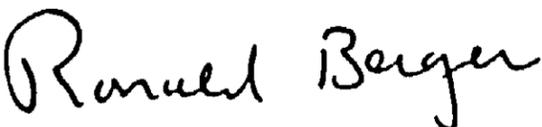
Another area that contributed to Simms's low score was its proposed technical approach. The Navy reports that Simms's technical approach was a general outline rather than an analysis of how the technical approach would be implemented. The Navy reports that the RFP required

⁴For example, Simms has not specified any instances where the Navy's evaluation of SPA's technical proposal was unreasonable, despite engaging counsel who had the benefit of obtaining the complete record of the evaluation under a protective order.

offerors to demonstrate understanding and provide a description of the approach to performing the work. The Navy advises that Simms did not provide that description. In response Simms admits that its discussion of technical approach was limited, but asserts that it included some discussion of technical approach in its treatment of the sample problems. The RFP specifically required offerors to separately discuss technical approach under the technical approach section of the technical proposal. Therefore, we find that the Navy was justified in rating Simms's proposal low under technical approach, particularly since the Navy did not consider Simms's solutions to sample problems to be sufficient.

While we have only discussed two weaknesses in Simms' technical proposal under the two most important evaluation criteria, our review confirms that Simms' proposal was fraught with numerous weaknesses under each evaluation criterion.⁵ On the other hand, the record shows that in making the decision to award to SPA, the Navy, after reviewing the point scores and underlying evaluations, expressly found that SPA had a superior technical proposal and was worth its higher proposed cost. Since the RFP provided that technical capability was the most important factor and provided for award to other than the lowest-cost offeror, we find that the Navy's decision was reasonable and consistent with the RFP.

The protest is denied.


 R James F. Hinchman
 General Counsel

⁵While we have not treated in detail each and every one of the protester's many arguments, they have all been considered and have played a role in our decision. J.J.H., Inc., B-247535, Sept. 17, 1992, 92-2 CPD ¶ 185.