



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

5262811

Decision

Matter of: Canadian Commercial Corporation/Andrew
Canada, Inc.
File: B-257367.2
Date: November 23, 1994

L. Stephen Quatannens, Esq., Gardner, Carton & Douglas, for the protester.
Jon T. Anderson, Esq., Thelen, Marrin, Johnson & Bridges, for Technology for Communications International, an interested party.
D. G. Lapointe, Esq., and James E. Fender, Esq., Department of the Navy, for the agency.
Sylvia Schatz, Esq., David A. Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that awardee's proposal was technically unacceptable is denied where protester's position is based on an unreasonable interpretation of specification provision establishing a design goal--that multi-mode spiral antenna be of minimum height required to meet performance specifications--instead of establishing an objective, pass/fail height requirement.

DECISION

Canadian Commercial Corporation/Andrew Canada (Andrew) protests the Department of the Navy's award of a contract to Technology for Communications International (TCI), under request for proposals (RFP) No. N00102-93-R-0325, for high frequency antenna systems and ancillary equipment.¹ Andrew primarily contends that both the awardee and Antenna Products Corporation (APC), the offeror next in line for award, submitted proposals that failed to meet certain

¹Andrew, as a Canadian offeror, under agreement between the governments of Canada and the United States, submitted its offer through Canadian Commercial Corporation (CCC). In the event of a contract award to CCC, CCC would enter into a subcontract to have the work performed by Andrew. See Defense Federal Acquisition Regulation § 225.870.

solicitation requirements and therefore were technically unacceptable.²

We deny the protest.

The RFP, issued on July 29, 1993, contemplated the award of a firm, fixed-price contract for 12 vertical log periodic antennas; 18 horizontal log periodic antennas; 20 multi-mode spiral (MMS) antennas; and ancillary equipment for the Royal Saudi Naval Forces under a foreign military sale. The MMS antenna, the subject of the protest here, consists of four copper wires that are mounted in a spiral around the surface of the cone-shaped antenna from the base of the cone to the apex, with the apex of the cone pointed down, toward the ground. The antenna functions when three transmitters located near the antenna send energy through transmission lines to a multi-mode combiner which is connected to the four wires at the apex of the antenna. The combiner excites the antenna by feeding the energy in either the high angle mode, low angle mode, or hybrid angle mode through four terminals connected to the four wires. When the energy reaches an area on the wires where the dimension of the cone is a certain wavelength, it leaves the antenna at the active region or phase center by radiating upward a wave at a certain angle, which is the take-off or elevation angle. The wave, which has information modulated on it, is eventually refracted (or reflected) off the ionosphere at about 300 to 350 kilometers above the earth and returns down to communicate with ships or ground forces. The angle can be depicted in a computer-generated radiation pattern, which is used to determine which antenna to use.

The RFP required offerors to submit technical and price proposals and instructed offerors to include in their technical proposals information/documentation in sufficient detail to identify clearly the offerors' overall qualifications and to enable the agency to evaluate compliance with the applicable specifications. The solicitation provided for evaluation of technical approach, corporate experience, and facilities, with award to be made to the responsible offeror submitting the low, technically acceptable offer. The solicitation stated that to be technically acceptable, the offeror's proposal must be evaluated as technically acceptable for each evaluation factor and subfactor.

The Royal Saudi Naval Forces directed the requirement to be procured competitively among three companies which had

²Since we have concluded that the Navy reasonably determined that TCI's proposal was technically acceptable, we need not discuss the arguments concerning APC's proposal.

previously been determined to have the experience and technical capability to manufacture the required antennas. The Navy recommended three firms--Andrew, APC, and TCI--all of which submitted proposals. Following discussions with the three offerors, best and final offers (BAFO) were requested. TCI submitted the lowest BAFO price (\$5,726,393); APC's was next low (\$5,764,632); and Andrew's was third low (\$6,115,206). After determining TCI's BAFO to be technically acceptable and its price to be realistic, the Navy awarded the contract to TCI as the low, technically acceptable offeror. Andrew thereupon filed this protest with our Office.

RADIATION PATTERNS FOR THE MMS ANTENNA

Andrew argues that TCI failed to comply with paragraph 3.7.12(d) of the specifications, which established the required frequency ranges for the high, hybrid, and low angle modes at given take-off angles; according to Andrew, the specification required offerors to submit a minimum of 30 radiation patterns--one azimuthal (horizontal) pattern and one zenith (vertical) pattern for each of the five specified frequencies in each of the 3 modes--for the MMS antenna, but TCI submitted only 20 patterns. Noting that 10 of the 20 patterns submitted by TCI were for both the high angle and the hybrid modes; Andrew maintains that identical patterns could not be submitted for both modes because the energy leaves the antenna at a significantly lower height on an apex pointed-down antenna in the high angle mode than in the hybrid mode.³

³Andrew also raises untimely arguments. For example, the protester argued for the first time in its September 12, 1994, comments on the supplemental agency report that TCI had failed to meet the requirement in amendment No. 0002 for offerors to submit power gain data based on perfect and average ground conditions (having instead furnished data based on poor ground conditions). Protesters are required to raise supplemental grounds of protest within 10 working days after the basis for the additional argument is known or should have been known. See 4 C.F.R. § 21.2(a)(2) (1994); Labat-Anderson Inc., B-246071.5, Aug. 31, 1992, 92-2 CPD ¶ 136. Andrew's July 15 comments on the agency report, in which it argued that TCI had failed to meet the requirement in the amendment for offerors to submit power gain data based on poor ground conditions (an argument it later abandoned), shows that Andrew knew not later than July 15 all the information needed to support the September 12 argument. The additional argument thus is untimely and will not be considered.

The procuring agency has primary responsibility for evaluating the technical information supplied by an offeror and determining the technical acceptability of the offeror's item; we will not disturb a determination of technical acceptability unless it is shown to be unreasonable. Alpha Technical Servs., Inc., B-250878; B-250878.2, Feb. 4, 1993, 93-1 CPD ¶ 104. A protester's mere disagreement with the agency's technical judgment does not establish that it was unreasonable. See Diversified Technical Consultants, Ltd., B-250986, Feb. 22, 1993, 93-1 CPD ¶ 161.

The agency reasonably concluded that TCI complied with paragraph 3.7.12(d). First, although TCI was asked during discussions to furnish power gain and efficiency data for all antennas, there was no requirement in paragraph 3.7.12(d) of the specifications, nor anywhere else in the solicitation, for offerors--as distinct from the contractor during contract performance--to submit a specific number of radiation patterns to show compliance with the RFP requirements. Further, the record does not support Andrew's argument that the identical patterns submitted by TCI for both the hybrid and high angle modes were unacceptable. The Navy reports, and TCI's witnesses testified at the hearing conducted in connection with this protest, that the way in which TCI's combiner feeds the four wires on the antenna cone excites the hybrid and high angle modes in exactly the same range of occurrence, such that the wave leaves the antenna at exactly the same phase center in both modes. Since the height at which the wave leaves the antenna is the same for the high and hybrid modes, the patterns for both modes are also identical, only shifted 90 degrees. Hearing transcript (Tr.) at 185-186, 200-203, 221-223. Andrew has not rebutted the agency's determination in this regard. Indeed, Andrew itself agrees that the wires can be fed by a combiner in a manner that the active regions occur at the same height in both the high and hybrid modes and that the radiation patterns therefore would be identical for both modes. Tr. at 42-45.⁴ Thus, there is no basis to question the agency's determination of TCI's compliance with paragraph 3.7.12(d).

Andrew also argues that by submitting radiation patterns using only directive gain (the shape of the antenna independent of the energy losses) data, TCI failed to comply

⁴Andrew also argues, in its September 12 submission, that TCI's proposed combiner approach failed to meet another solicitation requirement for an essentially circular, omnidirectional antenna pattern. This argument is based on information from TCI's proposal, which was received by Andrew more than 10 working days before September 12; this argument therefore is untimely.

with a requirement for radiation patterns for the MMS antennas using power gain (the shape of the antenna minus the total energy losses associated with getting the power to the antenna) data. The protester maintains that since directive gain always exceeds power gain--as, unlike power gain, it does not take into account any energy losses due to the inefficiencies that occur with all antennas--TCI's radiation patterns overstated the actual power of its MMS antenna.

TCI complied with the power gain data requirement. Although the radiation patterns submitted with TCI's proposal used directive gain data instead of power gain data, TCI also submitted with its proposal tables for all three modes--the high, hybrid, and low angle modes--comparing the power gains and efficiency levels of its proposed antenna with those required in the specifications.³ The Navy reports that, using these tables, it converted the efficiency data to an equivalent decibel value, which was subtracted from the directive gain contained in TCI's radiation patterns, resulting in the power gain of TCI's MMS antenna. A comparison of the power gain data submitted by TCI to the minimum RFP requirements shows that, in all cases, TCI's antenna not only met, but in fact exceeded the minimum required levels. This allegation therefore is without merit.

MMS ANTENNA HEIGHT REQUIREMENT

Andrew argues that TCI's offered 220-foot-high, single tower MMS antenna design did not comply with paragraph 3.7.12(g) of the specifications, which stated that "[t]he antenna shall be of the minimum height required to support the radiating elements in such a manner that they will meet the requirement of this specification," and paragraph 1.2.3, which stated that "[i]n order to minimize the painting requirements for purposes of structural preservation and obstacle avoidance . . . the antenna shall be of the minimum height required to fulfill the operational requirements of this specification." According to Andrew, TCI did not comply with these requirements because its proposed single tower MMS antenna was taller than the minimum height possible, consistent with the performance requirements, which could only be achieved by an approach such as Andrew's, which uses multiple lower towers. Andrew argues that by waiving this requirement for multiple towers, the Navy conferred a competitive advantage on TCI; according to

³Although the tables submitted by TCI use the term "gain of azimuth pattern" instead of "power gain," the record shows that it is customary in the antenna industry to use the term "gain" to refer to "power gain." Tr. at 208.

Andrew, its proposed 87-foot-high, multi-tower MMS antenna, with its multiple foundations and towers, would be significantly more expensive to install than TCI's single tower.

The Navy maintains that TCI's proposed MMS design was an acceptable approach to meeting the design considerations reflected in the above specification provisions. Specifically, the agency notes that the area to be painted under TCI's design was limited, totalling only 220 square feet--300 square feet less than under Andrew's design--and the height of TCI's MMS antenna (220 feet) was less than the 252-foot and 250-foot maximum heights established for the other antennas under the RFP to avoid creating an aerial obstacle to airplanes and helicopters.

Andrew's argument is based on a misinterpretation of the RFP as establishing an objective height limitation for the antennas. In fact, we think it is clear from the provisions in question that minimizing height to the extent possible was intended as a goal rather than an absolute requirement. The language in the relevant paragraphs in no way purported to limit the height of the antenna to 87 feet, and did not indicate that 220 feet was too high. Under Andrew's reading of the RFP, only the lowest height antenna could be accepted for award, and there is absolutely no indication that the award decision was meant potentially to turn on this determination. Moreover, as the agency points out, the purposes for the height concerns--painting and aerial obstruction--appear to have been satisfied by TCI's approach, since there is less surface area to be painted on TCI's antenna than on Andrew's, and the heights specified for the other antennas in the RFP exceeded the height of TCI's antenna, suggesting that 250 and 252 feet were deemed acceptable heights. We conclude that Andrew's interpretation of the specifications as establishing an objective pass/fail height requirement was unreasonable. Before adopting a design approach based on such a restrictive reading of the RFP, Andrew at least should have requested clarification from the Navy.

Andrew raises several additional arguments concerning the acceptability of TCI's proposal, all of which we find to be without merit. For example, the solicitation provided for consideration of an offeror's history and work experience within the past 5 years, with emphasis on experience in the programs/skills relating to the statement of work. The solicitation specifically stated that "[t]he offeror must describe corporate experience demonstrating knowledge and ability to perform the tasks in the SOW [statement of work]." Andrew contends that TCI's proposal showed that it lacked the experience to perform the requirements in the solicitation, since TCI had not designed and built an apex

pointed-down MMS antenna. However, TCI stated in its proposal that it had designed and built numerous antennas, including an apex pointed-up MMS antenna. Based on this experience with high-frequency, multi-mode spiral antenna technology, the Navy concluded that TCI could design and build an apex pointed-down system, since this would require only an insignificant modification to an apex pointed-up design. Since TCI's proposal showed familiarity and experience with antennas in general and MMS antennas in particular, the agency reasonably determined that TCI's prior experience was acceptable.

The protest is denied.


for Robert P. Murphy
Acting General Counsel