



Comptroller General
of the United States

1253121

Washington, D.C. 20548

Decision

Matter of: TRW Inc.
File: B-258347
Date: January 11, 1995

John L. Guldimann, Esq., for the protester.
LTC Ralph L. Littlefield and Connie S. Faulkner, Esq.,
Department of the Army, for the agency.
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Hutchen, Esq., Crowell & Moring, for Aerojet-General
Corporation, an interested party.
Peter A. Iannicelli, Esq., and Michael R. Golden, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

1. Protest alleging "on information and belief" that the protester's proposed product is superior to the awardee's and is the only proposed product that can meet the solicitation's testing requirements is denied where the allegations are unsubstantiated and provide no basis for finding unreasonable the agency's determination that the protester's and the awardee's proposed products are similar in nature and that both met the testing requirements.
2. Protest alleging that the agency improperly evaluated the technical and management areas of the protester's proposal is denied where the evaluation was reasonable and consistent with the stated evaluation criteria; the protester's mere disagreement with the evaluation provides no basis to find the evaluation unreasonable.
3. Contracting agency reasonably decided to award a cost-type contract to the offeror of the highest-rated, highest-cost proposal where: (1) awardee's proposal received the highest technical and management evaluation ratings; (2) the solicitation stated that technical and management evaluation areas were more important than cost; and (3) the agency's cost realism analysis showed that the most probable cost of all three proposals were within a very close range.

DECISION

TRW Inc. protests the Department of the Army's award of a research and development contract to Aerojet-General Corporation (Aerojet) pursuant to broad agency announcement (BAA) No. DASG60-94-0044.¹ TRW alleges that it should have been awarded the contract because: (1) it proposed a gel propellant that is superior to Aerojet's, (2) the Army miscalculated its proposal, and (3) TRW's total proposed price is less than Aerojet's.² We deny the protest.

Issued by the United States Army Space and Strategic Defense Command, the BAA, entitled "Gel Propulsion Missile Control Technology," was published in the Commerce Business Daily on April 29, 1994. The BAA solicited proposals for a cost-plus-fixed-fee contract to design, develop, fabricate, demonstrate, flight qualify, and deliver a technical data package for a gel propellant divert and attitude control system (DACS) suitable for flight test on a Theater High Altitude Area Defense (THAAD) missile and set June 6 as the closing date for submission of initial proposals. The BAA stated that the Army would select for contract award the most advantageous proposal based upon evaluation of technical and management areas and cost. The BAA also stated that technical and management areas were equal in importance and were more important than cost and that proposed costs would be evaluated for realism and reasonableness. The BAA emphasized: "The primary basis for selection of proposals will be the technical and management merit, availability of funds, and program balance."

¹The BAA was issued instead of a formal request for proposals.

²In its initial protest, TRW also alleged that award to Aerojet was improper because: (1) Aerojet has no experience in managing successful programs involving gel propulsion systems using the identical propellant required in the program; (2) the Army allowed too little time for proposal preparation; (3) the Army did not give TRW equal access to critical documents in the bidders' library; (4) discussions were not meaningful; and (5) procurement officials demonstrated a pattern of treating TRW unfairly. The Army responded to the allegations in its protest report, but TRW did not address the issues further in its comments on the report. Therefore, we consider these protest grounds to be abandoned. See Heimann Sys. Co., B-238882, June 1, 1990, 90-1 CPD ¶ 520.

Three proposals were received by the June 6 closing date for receipt of initial proposals. Proposals were evaluated by a scientific evaluation team and written discussions questions/comments were sent to each offeror. All three offerors responded to the discussions questions/comments and submitted proposal revisions by the July 6 closing date for final offers. After final offers were evaluated, the source selection authority (SSA) determined that Aerojet's proposal was the most advantageous to the government in both the technical and management areas and that there was a reasonable likelihood of Aerojet's accomplishing the effort at its proposed costs. The contract was awarded to Aerojet on July 29. After a debriefing conference, TRW filed a protest with our Office on August 30.

The protester asserts that its proposed gel propellant is superior to Aerojet's proposed propellant in terms of performance, occupational safety, health standards and environmental factors. The protester also states, "based on information and belief," that the gel propellant it proposed is the only one that has passed all insensitive munition (IM) compliant tests and, therefore, its offer is the only one that is responsive to the BAA requirements.

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. Simms Indus., Inc., B-252827.2, Oct. 4, 1993, 93-2 CPD ¶ 206. 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.

Here, the BAA stated, in pertinent part, that:

"The DACS shall be form, fit, and function equivalent of the current liquid propellant under development for the Theater High Altitude Area Defense (THAAD) system. It shall be insensitive munition (IM) compliant and have the potential for higher performance than the current THAAD DACS. The research, development, and demonstration of this effort shall feature new or improved technologies for a DACS using gelled liquid propellants."

The Army points out that the quoted IM compliance requirement is applicable to the proposed DACS rather than just the propellant component of the DACS. Thus, the Army states that there was no requirement for the proposed propellant to have passed IM compliance testing as the protester alleges. In this regard, the Army reports that

TRW's propellant was tested using tanks rather than a full propulsion missile system and that TRW's propellant passed some, but not all, of the IM compliance tests. Nonetheless, the record shows that the evaluation team recognized TRW's propellants having passed some IM tests as an advantage of TRW's proposal.

Contrary to TRW's assertion, the Army reports that all three offerors proposed propellants that complied with the BAA's basic requirements. The Army states that each of the proposals received was based on use of a propellant that was a variation of gelled monoethyl hydrazine and gelled inhibited red fuming nitric acid and that all proposed propellants exhibit similar IM characteristics and are compatible with the BAA requirement to produce an IM compliant DACS. The Army further reports that TRW's and Aerojet's proposed propellants are similar and that neither propellant is superior to the other in terms of performance, occupational safety, health standards, and environmental factors.

The protester's assertions that its proposed gel propellant is superior to Aerojet's and is the only compliant propellant are "based on information and belief." The assertions are unsubstantiated and are unaccompanied by any explanation or documentation showing how the Army's evaluation was improper. Because TRW has submitted no evidence to support the allegations, this protest ground amounts to mere speculation and provides no basis for finding the Army's analysis unreasonable. See Federal Computer Int'l Corp.--Recon., B-257618.2, July 14, 1994, 94-2 CPD ¶ 24; Automated Data Management, Inc., B-234549, Mar. 2, 1989, 89-1 CPD ¶ 229.

TRW contends that the Army improperly downgraded its proposal in the technical evaluation because the evaluators believed TRW's center of gravity analysis was inadequate. TRW contends that the BAA did not contain any center of gravity requirement, and, therefore, the Army's evaluation improperly was based upon an evaluation criterion that was not set forth in the solicitation.

The record shows that the evaluation of offerors' center of gravity analyses and related supporting documentation was consistent with the BAA's stated evaluation scheme. The BAA stated that the technical area evaluation would include evaluation of three factors, including "overall scientific/technical quality." The BAA also stated that, "[t]he DACS shall comply with all TMAC DACS performance, interface, dimension, mass, center of gravity, and other constraints." [Emphasis added.] In addition, the BAA required proposals to include "full discussions of the score, nature, and objectives of the proposed research

effort; rationale for the technical approach and methodology; expected results and their contribution to gel DACS missile control technology goals." [Emphasis added.] The BAA also notified offerors that they could have access to a library containing pertinent technical documents and drawings maintained by the contracting activity.

The contracting officer states that the center of gravity requirements were contained in a design control drawing in the library³ and that all of the center of gravity information necessary to successfully respond to the BAA was contained in that document. In this connection, TRW's proposal specifically referenced the dynamic center of gravity movement requirement contained in the design control drawing and merely stated that its proposed gel DACS met the requirement. The agency correctly reports that TRW's proposal contained no analysis, rationale, or explanation to demonstrate the scientific/technical quality of this aspect of the proposal.

Overall, the evaluation team determined that TRW's initial proposal's technical quality was "average" and that the proposal was overall "acceptable" on the scientific/technical quality technical factor, which included, among other things, examination of the degree to which proposals demonstrated acceptable approaches to the THAAD DACS. However, the evaluation team noted that TRW's proposed design significantly modified the position of the DACS pressurization system and included a large redistribution of the DACS mass. The evaluators expressed concern that the center of gravity of TRW's proposed DACS might be shifted forward when the pressurization system was shifted forward. Even though the proposal stated the proposed DACS met the center of gravity shift requirement, the scientific evaluation team noted that the proposal "lacked any meaningful justification for that claim," and the evaluators believed it might violate the BAA's requirement that the proposed DACS be form, fit, and function equivalent of the current liquid propellant DACS.

The evaluators' concern was raised with TRW during discussions. The first written discussion item stated: "The analysis identifying the center of gravity for the proposed gel divert and attitude control system (DACs) could not be located." TRW's response was very brief and general in nature. Rather than providing the requested analysis, TRW merely stated what it had determined the "dry center of

³The record shows that TRW used the library in preparing its proposal and, in fact, its proposal cited a number of materials and drawings from the library as the source for various technical requirements.

gravity coordinates" to be for its proposed gel DACS, that the coordinates were established using the "CATIA solid modeling system," and that its gel DACS has "very little dynamic [center of gravity] shift."

The scientific evaluation team was not satisfied with TRW's response. The evaluators believed that TRW's final proposal still contained inadequate supporting data regarding the center of gravity shift. Even though the evaluation team gave TRW's final proposal an improved rating of "above average" overall in technical quality, the team reasonably considered the lack of any justification for the claim that the proposed gel DACS would meet the center of gravity shift requirement to be a disadvantage of the proposal.

TRW was responsible for providing a full discussion and the rationale for its technical approach and methodology within the four corners of its proposal and must therefore suffer the consequences of failing to do so. See Laboratory Sys. Servs., Inc., B-256323, June 10, 1994, 94-1 CPD ¶ 359. From this record, it is clear that TRW did not address the agency's concerns regarding center of gravity, and we think the agency's evaluation was reasonable. See Simms Indus., Inc., supra.

TRW next contends that the Army improperly downgraded its proposal because TRW initially proposed to flight test two proposed DACS using only half the thrusters required on a flight unit. However, TRW states that, in response to a written discussion comment, it offered to provide a full complement of thrusters at an additional cost of \$160,000. The protester contends that the Army accepted this revision and made an upward adjustment to TRW's proposed costs, but incorrectly did not give TRW's proposal credit for this revision in the final technical evaluation.

The evaluation team considered TRW's initial proposal "flawed," because TRW proposed to build and perform flight qualification testing on two DACS with only half the number of required thrusters required on a flight unit. In its written discussions, the Army asked TRW to "clarify any significant risk associated with flight qualifying a gel DACS with hardware that contains a half complement of thrusters." TRW answered: "There are no risks associated with using only a half complement of thrusters during systems testing." TRW also stated that its discussions responses "were not intended to modify or revise the proposal in any way." Nonetheless, TRW stated that, if a full complement of thrusters were required for testing, the additional cost to the government would be approximately \$160,000.

In accord with the BAA, the Army performed a cost realism assessment and reasonably made upward adjustments associated with increasing the number of thrusters. Contrary to TRW's assertion, the evaluation record shows that the evaluation team recognized that TRW's final proposal was based upon testing with a full complement of thrusters. However, the evaluators remarked that TRW's response about no risks associated with testing DACS with only a half complement of thrusters demonstrated a lack of understanding of the requirements for flight qualification testing. Because TRW failed to recognize the additional risk,⁴ the evaluators determined that TRW did not fully understand the testing requirements and this was considered a disadvantage of TRW's final proposal which in part was responsible for TRW's proposal receiving only an "above average" rating on the test operations subfactor of the scientific/technical quality factor.

Again, we see nothing unreasonable with this aspect of the evaluation since the record shows that TRW did not address a significant agency concern about technical risk. While TRW does not agree that such risk exists, it was TRW's responsibility to try to explain that to the agency's satisfaction. TRW's brief response to the evaluators' concerns, and its disagreement with the evaluators' judgment, provide no basis to find the evaluation unreasonable. See Simms Indus., Inc., supra. In this regard, the record shows that the evaluators credited TRW's final proposal with using a full complement of thrusters during testing. However, TRW's improved testing methodology was offset by the evaluators' determination that TRW's understanding of the testing requirements was inadequate because of TRW's remark that there was no risk to testing using a half complement of thrusters.

The protester next contends that the Army's management area evaluation was improper. TRW argues that the Army evaluators incorrectly determined that TRW's proposed schedule imposed a high risk on the program and gave TRW's proposal a lower management area rating as a result.

The BAA stated that the management area evaluation would consist of evaluation of three factors, including "organizational structure, planning, and scheduling." The record shows that the evaluation team rated TRW's initial proposal as "excellent" overall on the management area and "above average" on the organizational structure,

⁴The contracting officer reports that there are excessive risks associated with flight qualifying a DACS in a test configuration that is significantly different from the actual flight configuration.

planning, and scheduling factor. However, the evaluators considered TRW's schedule to be "high risk" because it called for the first flight qualification component hardware tests to start less than 2 months before testing of the first full flight qualification unit. According to the evaluators, the schedule left "no room for any problems," and, if any problems were discovered during component hardware testing, that could significantly impact the schedule.

The Army asked TRW to clarify any significant risks associated with the proposed schedule. In response, TRW identified a number of significant schedule risks but did not modify the proposed schedule to ameliorate the identified schedule risks. As a result, the evaluation team reasonably downgraded TRW's proposal's rating to "above average" in the management area and to "average" on the organizational structure, planning, and scheduling factor.

The contracting officer reports that there were a number of weaknesses in the schedule proposed by TRW that, among other things, did not support successfully completing the project in the 21 months proposed. For example, the contracting officer points out the Phase I component tests overlap the Phase II hardware design effort by 2 or 3 months; thus, any problems discovered during Phase I tests will likely cause delay in the Phase II design effort. A second example concerns TRW's proposal to delay most of the flight qualification hardware testing until the last 6 months of the project; the contracting officer reports that the Army's experience has been that technical problems are common in a research and development contract of this type, that such problems take time to resolve, and that this schedule increases the risk that the project will not be completed on time. We think the agency's concern that the TRW schedule did not allow adequate time to address problems which first surfaced during testing was reasonable. See Simms Indus., Inc., supra.

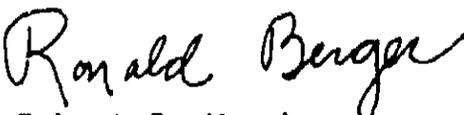
Finally, TRW asserts "on information and belief" that it should have been awarded the contract because its proposed costs were approximately \$2 million less than Aerojet's proposed costs. This argument provides no basis for sustaining the protest.

When agencies evaluate proposals for award of a cost reimbursement contract, offerors' proposed costs are not dispositive, because regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. Halifax Technical Servs., Inc., B-246236.6 et al., Jan. 24, 1994, 94-1 CPD ¶ 30. Consequently, a cost realism analysis must be performed to determine the extent

to which an offeror's proposed costs represent what the contract should cost, assuming reasonable economy and efficiency. Id.

Here, the BAA specified that cost was considered less important than technical and management areas and that proposed costs would be evaluated for reasonableness and realism. The Army examined each offeror's proposed costs and made adjustments to each in calculating the most probable total cost for each offer. After costs were adjusted for realism, the total evaluated costs for each of the three offers were within a very close range. The record also shows that Aerojet's proposal received better ratings than TRW's in both the technical and management evaluations. We have no reason to question the agency's technical, management, and cost evaluations. The SSA conducted a cost/technical tradeoff and determined that Aerojet's proposal represented the most advantageous proposal based upon its greater technical/management merit and the reasonableness of its evaluated costs. In view of the SSA's broad discretion and the BAA's evaluation scheme which emphasized technical/management merit over cost, we see nothing legally objectionable in the selection of Aerojet for contract award. See, e.g., Medical Serv. Corp., Int'l, B-255205.2, Apr. 4, 1994, 94-1 CPD ¶ 305.

The protest is denied.


for Robert P. Murphy
General Counsel