

Sklarew



Comptroller General
of the United States

208197

Washington, D.C. 20548

Decision

Matter of: Maytag Aircraft Corporation

File: B-259653.4

Date: July 19, 1995

William L. Silva for the protester.
Rick Beaman, Department of the Air Force, for the agency.
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of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Selection of the awardee on the basis of its overall technical superiority, notwithstanding its higher price, is unobjectionable where agency reasonably determined awardee's higher-priced proposal was worth the additional cost, and cost/technical tradeoff was consistent with the evaluation scheme.

DECISION

Maytag Aircraft Corporation protests the Department of the Air Force's award of a contract to UNC Aviation Services under request for proposals (RFP) No. F05611-94-R-2004, challenging the agency's evaluation of proposals and source selection.

We deny the protest.

The RFP was issued for aircraft maintenance and sailplane towing at the United States Air Force Academy Airfield. The evaluation criteria set forth in the RFP stated that proposals would be evaluated in the areas of technical, management, and price, with technical and management areas being of equal importance and both being more important than price. The technical area was to be evaluated under the subcriteria listed as phase-in, operational capability, and quality, while the management area was to be evaluated under the subcriteria of efficiency, continuity of operations, and innovation. The solicitation provided that award would be made to the offeror whose proposal represented the best overall value to the Air Force.

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A source selection evaluation team (SSET) reviewed each offeror's proposal and assigned a color-coded rating of blue (exceptional), green (acceptable), yellow (marginal) or red (unacceptable) to each of 39 subfactors in each proposal. The SSET sent deficiency reports and clarification requests to each offeror as needed. After the initial evaluation, UNC's proposal had received 36 blue ratings and 3 greens. Maytag's proposal had received 2 blues, 30 greens, and 7 yellows.

The Air Force selected UNC for award. However, when the agency realized that it had essentially held discussions but had not requested best and final offers (BAFOs), it reopened discussions and requested BAFOs. When BAFOs were evaluated, UNC's rating remained the same, while Maytag received 2 blues (as before), 35 greens (an increase of 5), and 2 yellows (a decrease of 5). UNC's price was \$17,786,963, and Maytag's submitted price was \$14,249,591.

The SSET presented its BAFO evaluation results to the source selection authority (SSA), and the SSA decided that UNC's proposal offered the best overall value. The agency affirmed its initial decision to award the contract to UNC, and this protest followed.

Maytag cites a statement in the RFP entitled "Basis for Contract Award," which provides that offerors' proposals "must comply in material respects" and "must meet all mandatory solicitation requirements" in order to be eligible for award. The protester argues that this language established an evaluation standard based on minimum compliance, rather than superior performance, and alleges that the agency, contrary to the RFP, rewarded UNC's proposal for exceeding the requirements.

Where the RFP provides that technical considerations will be more important than cost, source selection officials have broad discretion in determining the manner in which they will make use of the technical and cost evaluation results in arriving at a source selection decision. Red River Serv. Corp.; Mark Dunning Indus., Inc., B-253671.2 et al., Apr. 22, 1994, 94-1 CPD ¶ 385. Such cost/technical tradeoffs are governed only by the test of rationality and consistency with the RFP's stated evaluation criteria. Id.

Here, the protester's emphasis on the minimum conditions that offerors must meet in order to be eligible for award is misplaced. The fact that the RFP established a minimum standard, below which proposals would not be considered, does not mean that the contract was to be awarded on the basis of the low-priced, technically acceptable offer, as Maytag apparently argues. The RFP specifically stated that technical and management factors were to have more

importance in the source selection than price, and that the agency would "select the proposal which offers the BEST OVERALL VALUE to the Air Force." These source selection statements place offerors on notice that the agency was inviting firms to submit proposals with an emphasis on technical merit, and that a proposal with higher technical merit could be selected over a technically inferior, lower-cost offer. In addition, the "assessment criteria" established in the RFP for evaluating technical and management proposals signaled that the agency was interested in obtaining superior performance, rather than a minimally acceptable approach.¹ The criteria included, for example, such considerations as "Quality - To what extent does the proposal reflect a commitment to high standards, safety, environmental issues, attention to detail and concern for excellence." This language called for a comparative assessment of the technical and management proposals. We conclude that the Air Force's evaluation to determine technical superiority and the emphasis on technical superiority in its source selection decision were entirely consistent with the terms of the RFP.

Maytag's only specific allegation concerning the technical evaluation is that the agency improperly considered the awardee's past performance in its evaluation and source selection determination.

We find no improper emphasis placed on past performance in the evaluation record. Rather, the source selection decision document states, for example, that:

"UNC Aviation Services far exceeds standards depicted in the Performance Work Statement and proposed initiatives that enhance the safety of our flight operations while providing efficiencies to the government. UNC's proposal displayed outstanding knowledge of aircraft maintenance, management, and operational requirements at the USAF Academy airfield while incorporating management efficiencies, quality programs, and environmental awareness."

¹While Maytag characterizes the assessment criteria as being "buried" in section M, and would minimize their importance in the evaluation, we note that section L-630, "Sequence of Events During Proposal Evaluation," clearly states that "Technical/Management and Cost Proposals . . . will receive a detailed evaluation employing the criteria identified in Section M of the RFP." We think this notice made it clear that the assessment criteria were applicable to the evaluation.

While the document then notes that "UNC has an excellent track record on current Academy aircraft maintenance and towing services contract of the same magnitude," we do not think this demonstrates an improper emphasis on past performance because the solicitation clearly indicated that past performance would be taken into account in the overall evaluation.

Although the assessment criteria do not specifically list "past performance," the detailed proposal preparation instructions in the RFP advise offerors to include a description of work performed in the past five years that is essentially comparable to this contract and to "provide a narration of how the past experience may benefit performance of this contract." The RFP states that the "assessment criteria will be used to determine the degree to which each proposal satisfies the stated requirements in the solicitation, including instructions for proposal preparation, and [performance work statement]." In addition, the RFP advised that a preaward survey would be performed to determine an offeror's ability to perform, and that the accomplishment of the survey would be part of the evaluation process. The RFP's list of areas that could be considered under this survey specifically included "performance record." Thus the RFP placed offerors on notice that past performance would be considered during the evaluation. Since a contracting agency may properly consider its actual experience with an offeror where that experience is encompassed in specified evaluation factors, see Donald Clark Assocs., B-253387, Sept. 15, 1993, 93-2 CPD ¶ 168, we conclude that the agency's consideration of UNC's past performance was proper in this evaluation.

Maytag also argues that the "best value" selection decision was not supported by a proper cost/technical tradeoff analysis. We disagree. The record shows that UNC's proposal far exceeded the other three proposals in technical quality and innovation, and was considered to present no performance risk; it was the technical/management evaluation team's unanimous first choice. Maytag's proposal was the lowest-scoring proposal in the competitive range, and was considered minimally acceptable. Moreover, the evaluators cited several problem areas in Maytag's proposal, stating for example that it "demonstrated an overall unfamiliarity with aircraft maintenance management and operations at the USAF Academy" and that a submitted phase-in plan, described as marginal, "did not present convincing evidence that the plan was feasible or could be accomplished on time." Comparing the technical/management proposal scores, UNC received 36 "exceptional" and 3 "satisfactory" ratings, while Maytag received 2 "exceptional," 35 "satisfactory," and 2 "marginal" ratings. UNC's risk rating was low, while Maytag's risk rating was moderate to high.

Accordingly, we consider the Air Force's conclusion that UNC's technically superior, higher-priced proposal represented the best value to be reasonable and consistent with the terms of the RFP.

The protest is denied.

Ronald Berger
for Robert P. Murphy
General Counsel