



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

PR

**Matter of:** Tracor Flight Systems, Inc.

**File:** B-245132

**Date:** December 17, 1991

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Douglas M. Wilson for the protester.  
John R. Cox, Esq., for AEL Defense Corp., R.D. Hawkins for E-Systems, and Denver C. Price for Chrysler Technologies Airborne Systems, Inc., interested parties.  
Lt. Col. William H. Spindle, Department of the Air Force, for the agency.  
Paula A. Williams, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Where solicitation provided that cost was the least important evaluation factor and that multiple awards would be made to the responsible offerors whose offers were most advantageous to the government based on an integrated assessment of each proposal, agency was not required to make an award to an offeror which submitted the lowest cost technically acceptable offer where the agency reasonably determined that the cost advantage was outweighed by the technical and management risks associated with the proposal.
2. Agency is not required to conduct discussions with respect to inherent weaknesses in an offeror's approach that would require major revisions to resolve or with respect to a lack of specific experience required by the solicitation which could not be ameliorated as a result of discussions.

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### DECISION

Tracor Flight Systems, Inc. protests the rejection of its proposal and the award of four contracts under request for proposals (REP) No. F33657-91-R-2003, issued by the Department of the Air Force for services under its aircraft modification program. Tracor contends that it should have been awarded a contract because it submitted the lowest cost technically acceptable proposal, and that the agency failed to hold meaningful discussions with the firm.

We deny the protest.

The RFP contemplated multiple awards of time and materials, indefinite-quantity contracts under which the Air Force will place delivery orders within the scope of the RFP statement of work (SOW). The RFP detailed seven tasks representing the kind of services that can be ordered under the SOW. In responding to the RFP, offerors were required to submit their proposals in six volumes, including an executive summary, information on past performance, technical, management, administrative, and cost/price. The RFP further instructed each offeror to organize its technical proposal volume into six parts to demonstrate the offeror's capability and expertise to satisfactorily perform the required services. In part 3 of the technical volume, offerors were instructed to discuss their experience and capabilities in several specific areas, including ground tests, system checkout, and electromagnetic interference/electromagnetic compatibility (EMI/EMC) testing. In their management proposals, offerors were required to submit a management plan which described the approach and capability to manage the contracted effort with the management team currently on hand and, if the team is not currently in place, when it will be.

The RFP provided for the evaluation of proposals under the streamlined source selection procedures of Air Force Regulation (AFR) 70-30. Awards were to be made to the responsible offerors whose offers were the most advantageous to the government based on an integrated assessment of each proposal. The evaluation factors were, in descending order of importance: technical, management, and cost, with technical and management each including a number of subfactors which were equal in weight. In addition, the solicitation provided for separate evaluation of "general considerations," which consisted primarily of a performance risk analysis of the offerors' past and present performance. The cost proposals were to be evaluated for realism, reasonableness, and completeness, and the costs proposed were to be evaluated based on a comparison of the weighted composite hourly rates.

The technical and management proposals were evaluated by a source selection evaluation team (SSET) which, consistent with the scope of evaluation delineated in the RFP, rated each evaluation factor with a color/adjectival rating to indicate how well the offeror's proposal met the evaluation standards, solicitation requirements, and a proposal risk rating assessing the risks associated with the offeror's proposed effort to accomplish the solicitation requirements. The color ratings were: blue/exceptional, green/acceptable, yellow/marginal, and red/unacceptable. The proposal risk ratings were: high, moderate, and low. These same

three risk assessment ratings were also used in the performance risk evaluation conducted under the general considerations area.

The Air Force received nine proposals and, following an initial technical evaluation, clarification requests (CR) and deficiency reports (DR) were issued to all nine offerors. The agency evaluated the offerors' responses and one offeror was excluded from the competitive range as technically unacceptable. The Air Force also conducted a pre-award survey for all offerors in the competitive range and had a past performance risk analysis group (PPRAG) conduct a performance risk assessment of each competitive range offeror's past and present performance. Thereafter, best and final offers (BAFO) were requested and seven firms submitted BAFOs.

The evaluated weighted composite hourly rates submitted in the BAFOs ranged from \$48.18 for Tracor to \$64.57 for Lockheed Corp. Following the evaluation of BAFOs, a proposal analysis report (PAR) was prepared by the SSET for presentation to the source selection authority (SSA). All seven proposals were evaluated as green/acceptable overall, under both technical and management. The SSET also found that Tracor's proposal posed a moderate risk in both the technical and management areas and a high risk in the general considerations area. The SSA concluded that the proposals submitted by AEL Defense Corp., Rockwell International, E-Systems, and Chrysler Technologies Airborne Systems, Inc., were the most advantageous to the government and he selected these four offerors for award. The weighted composite hourly rates under the selected awardees' proposals ranged from \$50.81 to \$60.62. The SSA determined that while all seven of the BAFOs were adequate under the solicitation evaluation criteria, each of the four selected awardees' proposals "offers significant utility" and, in each case, "although the composite person hour rate is not the lowest, it is my view that the small difference is more than offset by the technical characteristics of [the] proposal."

The four awardees selected are the four offerors recommended for award in the PAR, which notes that these four proposals all have low risk ratings under the technical, management, and general considerations areas, and states the respective cost standing of the proposals. The PAR notes that "Tracor, with the lowest composite person hour rate, is not recommended because of financial difficulties and a moderate risk associated with past performance." Following notification of the contract awards, Tracor filed this protest with our Office.

After Tracor filed its protest, the contracting officer had the proposals reevaluated because he believed that the Air Force might not have followed the RFP evaluation criteria with respect to the consideration given to the offerors' financial condition. As a result of this reevaluation, Tracor's proposal's risk assessment in the general considerations area was reduced to low, but Tracor's proposal continued to be rated as a moderate risk in the technical and management areas. The evaluations were otherwise unchanged. The SSA then issued a memorandum for the record stating that his earlier award decision had been based on the fact that the risk associated with the selected awardees' proposals was lower in the technical and management areas than the risk of the other proposals.

The SSA further stated that he "felt that higher risk contractors exhibited indicators that would prohibit them from reacting quickly in the fast-paced environment that they would face." He concluded that the reevaluation affirmed this decision and rationale. He further noted that:

"although Tracor offered the lowest composite weighted hourly rate, I did not feel that their proposal offered the best overall value to the government due to their higher risk in the technical and management areas. In my opinion, the offerors with the lowest risk in these areas provide the best overall value to the government and were well worth the higher cost."

The SSA also reissued source selection decisions for each of the four awardees, again finding that while each offeror's composite person hour rate is not the lowest, the small difference is more than offset by the superior characteristics evidenced in its proposal.

Tracor's allegation that it is entitled to an award because it submitted the lowest cost technically acceptable proposal is unfounded. In a negotiated procurement, there is no requirement that award be made on the basis of the lowest cost or price unless the RFP so specifies. Sabreliner Corp., B-242023; B-242023.2, Mar. 25, 1991, 91-1 CPD ¶ 326. Agency officials have broad discretion in determining the manner and extent to which they will make use of technical and cost evaluation results. Cost/technical tradeoffs may be made; the extent to which one may be sacrificed for the other is governed only by the test of rationality and consistency with the established evaluation factors. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325. Award may be made to higher-rated, higher-cost offerors where the decision is consistent with the evaluation factors and the agency reasonably determines that

the technical superiority of the higher-priced offerors outweighs the cost difference. Sabreliner Corp., supra.

Here, all proposals received green/acceptable assessments under technical and management and, consistent with the evaluation scheme, they were separately evaluated for proposal risk in these areas. Tracor's proposal received a moderate proposal risk rating in both areas, while all of the awardees' proposals received a low proposal risk rating in both areas. Given the nature of the services being acquired under the RFP--highly specialized tasks involving such things as analysis, engineering design, testing and inspection, to be performed on a quick-reaction basis--the SSA reasonably could view these higher risk ratings as rendering Tracor's proposal significantly less desirable than the awardees' proposals. That being so, the SSA could reasonably determine that because of its higher risk, Tracor's lowest cost technically acceptable proposal was not one of those most advantageous to the government despite its low cost.

Tracor asserts that the agency failed to conduct meaningful discussions because it did not point out to Tracor all of the areas in its proposal which provided the basis for the moderate risk ratings. Contracting officers are required to conduct discussions with all offerors whose proposals are within the competitive range. Federal Acquisition Regulation (FAR) § 15.610(b). Such discussions must be meaningful, and in order for discussions to be meaningful, agencies generally must point out weaknesses, excesses, or deficiencies in proposals, unless doing so would result either in disclosure of one offeror's technical approach to another or in technical leveling. The Faxon Co., 67 Comp. Gen. 39 (1987), 87-2 CPD ¶ 425.

Tracor's moderate risk assessment under management was based on its proposed staffing approach. In this regard, Tracor's management proposal provides that:

"[Tracor] will meet the initial requirements from our staff at our facility in Mojave, California. Should the need present itself during the contract start up phase, we have developed a labor pool survey of the extensive aerospace based Antelope Valley area surrounding our Mojave location. Guided by this survey data an aggressive recruiting ad campaign in the local newspapers can be carried out. If required, the greater Los Angeles basin and the San Diego area will provide additional resources of the caliber required to meet the planned requirements. In addition, as a result of our current and past contract requirements, we have an extensive file of

screened candidate personnel available for immediate employment. We recognize the requirement to meet both long term and intermittent quick response Delivery Order requirements.

The evaluators viewed this as a weakness under Tracor's management proposal because it indicated that Tracor did not currently have sufficient personnel on board to handle a heavy work load if imposed by the government, and that a recruitment effort would be required to staff up. Because the agency believed that Tracor's staffing approach was based on unrealistically optimistic assumptions about the availability of qualified individuals who could be expeditiously recruited to perform the quick-reaction requirements called for under the RFP, a moderate performance risk was assigned. However, during discussions the Air Force did not issue any DRs or CRs which alluded to its concerns with Tracor's staffing approach because it considered this weakness to be inherent in Tracor's proposal.

We agree with the Air Force. Tracor's proposal was structured around the use of a relatively small core work force, with Tracor intending to expand this force as necessary. Tracor's approach suggested that it does not have immediately available the personnel that could be needed to support all quick-reaction requirements which might be called for under the contract. This staffing strategy was an inherent aspect of Tracor's proposal that would have required significant revision to resolve the agency's concern. Agencies are not obligated to point out such inherent weaknesses during discussions. Development Alternatives, Inc., B-235663, Sept. 29, 1989, 89-2 CPD ¶ 296; Medical Care Dev., Inc.; Birch and Davis Int'l, Inc., B-227848.3; B-227848.4, Oct. 19, 1987, 87-2 CPD ¶ 371; Advanced Technology Sys., B-221068, Mar. 17, 1986, 86-1 CPD ¶ 260.

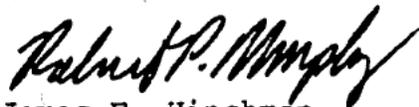
Tracor's moderate risk rating under its technical proposal was based in part on its limited EMI/EMC testing experience, the need for which experience is explicitly set forth under the RFP. Since lack of experience is not a deficiency that can be remedied through the discussion process, the agency was not required to point out this matter during discussions. Chemonics Int'l, B-222793, Aug. 6, 1986, 86-2 CPD ¶ 161. We note that the moderate proposal risk assessment was also based in substantial measure on Tracor's limited experience in performing air load/computational fluid dynamics analysis--a weakness which was brought to Tracor's attention during discussions, and which it was unable to rectify in its BAFO.

In short, we find no basis to conclude that Tracor was not afforded meaningful discussions.

Finally, Tracor contends that even though its proposal's high past performance risk rating in the general considerations area was reduced to low under the reevaluation conducted by the Air Force after Tracor filed its protest, this reevaluation was affected by the evaluators' "antecedent prejudice." That is, Tracor believes that since the same SSET personnel performed the reevaluation, the original findings must have colored the evaluators' subsequent judgment. This argument is based on Tracor's assumption that the evaluators would be unable to ignore their earlier findings.

We have recognized the reasonableness of conducting this kind of post-protest proposal reevaluation. ~~See~~ Avanco Int'l, Inc., B-241007.2, Mar. 13, 1991, 91-1 CPD ¶ 276. We find no reason to presume that the evaluators were unable to conduct an unbiased reevaluation, and the contrary is suggested by the fact that, on reevaluation, Tracor's past performance risk assessment was reduced from high to low. More significantly, the SSA explicitly states that his original award determination was based primarily on the moderate proposal risk assessments assigned to Tracor's management and technical proposals, not on the high risk assessment under the general considerations area. There is nothing in the record which either calls into question these moderate proposal risk assessments, or suggests that they were improperly influenced by the original general considerations high performance risk assessment. Accordingly, we find no basis to question the propriety of the reevaluation.

The protest is denied.



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