



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

92-2 CPD 368
PR

Decision

Matter of: Bendix Oceanics, Inc.--Reconsideration
File: B-247225.4
Date: November 24, 1992

Paul Shnitzer, Esq., Michael D. Newman, Esq., and James C. Minnis, Esq., Crowell & Moring, for the protester. John Van Schaik, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where protester repeats arguments made in its protest submissions and disagrees with original decision.

DECISION

Bendix Oceanics, Inc. requests reconsideration of our decision Bendix Oceanics, Inc., B-247225.3, July 27, 1992, 92-2 CPD ¶ 54, in which we sustained in part and denied in part Bendix' protest against the award of a contract to Hughes Aircraft Company under request for proposals (RFP) No. N00019-89-R-0061, issued by the Navy for development of an airborne low frequency sonar (ALFS) system. In that decision, while we sustained the protest based on our conclusion that the Navy's evaluation of the predicted performance of the batteries proposed by Bendix was not rationally based, we denied Bendix' protest that the Navy's technical evaluation of the Hughes proposal lacked a rational basis and that the Navy's cost/price evaluation was flawed. Bendix now requests that we reconsider our decision with respect to the evaluation of the Hughes technical proposal.

We deny the request for reconsideration.

As we explained in our original decision, ALFS is a "dipping" sonar system used on Navy helicopters to detect submarines. In this type of system, the transducer, which transmits the sonar pulse, is suspended in the water from a cable attached to a helicopter. While Bendix proposed to power its ALFS system by means of batteries that are recharged by a low level power source supplied through the cable from the helicopter, in the system proposed by Hughes, power is supplied directly to the transducer through a high

voltage cable running from the helicopter; no batteries are used.

In its protest, Bendix argued that the evaluators failed to realize, or even consider, that a critical flaw in the Hughes technical approach was the substantial risk that the level of current needed to generate the acoustic performance proposed by Hughes would cause the cable proposed for its sonar system to overheat and fail. Bendix argued that the Navy simply accepted Hughes' assurances that it would provide an acceptable cable and, according to Bendix, had the Navy rationally evaluated the approach proposed by Hughes, the ratings given to Hughes in the technical evaluation would have been lower. Specifically, Bendix argued that under the second most important technical evaluation subcriterion, operating and mechanical design, Hughes should have been given a rating of "Unsatisfactory."

We disagreed with Bendix' position because we could find no basis in the record to question the Navy's decision to accept the cable approach proposed by Hughes. First, the record showed that the Navy considered the possibility of the Hughes cable overheating and specifically raised the matter with Hughes during discussions. As we explained in our initial decision, in a question posed to Hughes, the Navy described the temperature range of the cable proposed by Hughes and asked: "How will cable meet full temperature requirements?" Hughes responded that it would comply with the solicitation's temperature requirement and stated that the proposed cable had been extensively used on another system with the same temperature range as the ALFS. In addition, Hughes replied: "We are fully confident that the same cable will totally comply with the [ALFS temperature] range. Our cable supplier has been requested to take necessary action so that the cable will withstand the requirement without altering sonar performance."

In addition, we noted that it is possible to obtain a cable that can handle the energy and temperature loads required by the Hughes system and meet the operating requirements of the solicitation. In fact, as we stated, at the hearing held on the protest, a Bendix technical expert conceded that the cable which Hughes would have to supply for its system to meet the performance requirements is not beyond current cable technology. Under the circumstances, where the Navy raised this matter in discussions and Hughes specifically committed itself to providing a cable that meets the requirements, in the absence of evidence that such a compliant cable could not reasonably be obtained by Hughes, we concluded that there was nothing improper in the Navy's decision to accept the risk of Hughes' proposed approach. Therefore, we stated that we had no basis on which to

challenge the rating given to Hughes under the operating and mechanical design subcriterion.

Bendix argues in its reconsideration request that the Navy failed to analyze whether the cable proposed by Hughes would meet the RFP temperature requirement. According to Bendix, the Navy's evaluation of the Hughes proposal was contrary to the solicitation, which required offerors to demonstrate an understanding of and solution to the solicitation requirements and associated risks, and contrary to decisions of this Office, which Bendix maintains required the Navy to reject the Hughes proposed cable approach as a blanket offer of compliance which did not satisfy a material solicitation requirement. Bendix argues that under this solicitation, the Navy could not find the Hughes proposal acceptable and therefore this contention should have been sustained.

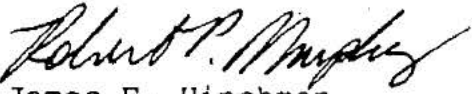
Under our Bid Protest Regulations, a party requesting reconsideration must show that our prior decision contains either errors of fact or law or that the protester has information not previously considered that warrants reversal or modification of our prior decision. 4 C.F.R. § 21.12(a) (1992). Repetition of arguments made during the original protest or mere disagreement with our decision does not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

Bendix argued in its protest submissions, as it does here, that the Hughes proposal included nothing more than unsubstantiated assurances that it would address the Navy's concerns about cable overheating. Bendix also argued that the Navy never properly analyzed whether the sonar system proposed by Hughes could provide the acoustical performance that it proposed without the cable listed in its proposal overheating and failing. While we did not separately respond to all of the arguments which Bendix raised to support its challenge of the evaluation of the Hughes proposal, we considered and rejected these contentions in our original decision. Bendix now disagrees with our resolution of this issue. Bendix' repetition of arguments and disagreement with our decision does not meet our standard for review of reconsideration requests. R.E. Scherrer, Inc.--Recon., supra.

In any event, we do not agree with Bendix' contention that the Navy was required to reject the Hughes approach under the circumstances of this case. There was no specific RFP requirement at all concerning cable heating since offerors were free to propose whatever approach to the problem of powering the sonar they wished so long as the RFP performance requirements were met, including the requirement that the system be able to operate under certain temperature

conditions. Not all of the offerors proposed to power the system by sending a high voltage current down the cable. Since Hughes did propose that approach, the Navy considered whether the cable to be used could meet the sonar performance requirements without overheating and raised the matter in discussions. While the Navy, which was responsible for determining the acceptability of Hughes' approach, could have further questioned Hughes concerning the capabilities of its cable or concluded that the risk of failure warranted downgrading the proposal, the agency was not required to do so; the agency was simply called upon to exercise its technical judgment and it did so here by deciding to accept the Hughes approach.

The request for reconsideration is denied.


for James F. Hinchman
General Counsel