GAO

Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: AMS Mechanical Systems, Inc.

File: B-281136; B-281136.2

Date: January 4, 1999

Lawrence J. Sklute, Esq., Nolan Sklute, Esq., and David R. White, Esq., Sklute & Associates, for the protester.
Timothy Noelker, Esq., Steven E. Kellogg, Esq., Michael T. Marrah, Esq., and Linda L. Shapiro, Esq., Thompson Coburn, for Engineered Air Systems, Inc.; David P. Handler, Esq., Carl Vacketta, Esq., and Keven P. Mullen Esq., Piper & Marbury, for Mechanical Equipment Company, Inc.; E. Keith Buchanan for SFA, Inc.; and Raymond A. Beebe for Highland Engineering, Inc., intervenors.
Vera Meza, Esq., and Elizabeth Burt-Feller, Esq., U.S. Army Materiel Command, for the agency.
Jacqueline Maeder, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably excluded from the competitive range a proposal which was properly evaluated to be materially noncompliant and lacking information and data necessary to support the proposed technical approach.

DECISION

AMS Mechanical Systems, Inc. protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. DAAE07-97-R-X037, issued by the Department of the Army, U.S. Army Tank-Automotive and Armaments Command (TACOM) for the acquisition of a prototype water purification/ desalination system, known as a Tactical Water Purification System (TWPS). AMS objects to the evaluation of its proposal, arguing, among other things, that TACOM did not understand AMS's proposed technology, ignored the technical data supplied by the protester, and subjected the proposal to a more rigorous evaluation than that which was applied to other competing proposals.

We deny the protest.

The RFP was issued on October 28, 1997[1] on an unrestricted basis as the first phase of a two-phase acquisition[2] and, as amended, provides for the award of up to two cost-plus-fixed-fee contracts for the design and fabrication of up to three 1,500 gallons per hour (GPH) TWPS prototypes under each contract. RFP § A-3, Executive Summary, ¶¶ 1- 3 and Amendments 3 and 6. Competition for phase two, the production contract, will be limited to awardees under phase one and that procurement will be conducted as a small business set-aside.[3] RFP § A-3, Executive Summary, ¶ 3. The 1,500 GPH water purification system is intended to replace smaller water purification systems currently in use and, per the specifications, is to be used to purify a broad range of water sources (fresh, brackish, sea and nuclear, biological, and chemical contaminated water) to produce a safe, reliable supply of potable water to support ground, amphibious, air mobile and airborne units during military operations and operations other than war. RFP § A-3, Executive Summary, ¶ 1.

Section L.11.2.1 of the RFP requires offerors to describe, in detail, the system design concept, selection and integration of components and any modifications required to enable the proposed water purifier to meet the performance requirements contained in the statement of work and the purchase description (PD) included in the solicitation. The PD states that the water purifier must be capable of purifying, storing, and dispensing water meeting Tri-Service Field Water Quality Standards, RFP, Attachment 1, PD § 1.2, and lists numerous performance, design, readiness, maintainability and reliability requirements. The water quality standards were included in the RFP, Attachment 1, PD Attachment A. In relevant part, the agency states that the Tri-Service Standards set forth 18 water quality criteria, including, among other things, chemical properties and agents and coliform bacteria.

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[1] Because the solicitation was issued prior to January 1998, the recent rewrite of Part 15 of the Federal Acquisition Regulation (FAR) that changed the language governing competitive range determinations does not apply. The prior language, applicable here, provides that the competitive range "shall include all proposals that have a reasonable chance of being selected for award" and that "[w]hen there is doubt as to whether a proposal is in the competitive range, the proposal should be included." FAR § 15.609(a) (June 1997).

[2] Phase one of the acquisition is for the engineering and manufacturing development (EMD) of the water treatment unit; phase two is for the production of approximately 500 units. RFP § A-3, Executive Summary, ¶¶ 2 and 3. According to the agency, EMD is the last stage of research and development and is used to verify that a proposed design meets the technical and operational requirements and is ready to enter production. Contracting Officer's Statement ¶ 16.

[3] The agency explains that this strategy is designed to require a participating large business to partner with a small business. Contracting Officer's Statement ¶ 4.

Additionally, offerors were required to provide a rationale for component selection, including design calculations and an outline of the major modifications anticipated in meeting the requirements. The solicitation calls for the system description to include a narrative describing the physical attributes, a list of major components with specifications (such as the manufacturer, model number, size, weight, materials of construction, power requirements, performance ratings, etc.), sketches, flow and electrical diagrams to include the relative location of major components, instrumentation, valves, and pipe/hose sizes, and anticipated flow rates, pressures, and temperatures of the raw, brine and product water throughout the various stages of the purification process. The solicitation also required offerors to describe in detail how their proposed systems would meet specified requirements outlined in sections 3.1.1 through 3.1.5, 3.1.7, and 3.1.11; 3.2.6 and 3.2.11; and 3.3.1, 3.3.4, and 3.3.6 of the PD[4] and specifically stated that "[t]he claimed or anticipated performance characteristics should be supported by pertinent information, such as published specifications, commercial literature, test results and the results of computer simulations or modeling." RFP § L.11.2.1.

Section M.3.1 of the RFP provided that the agency would award contracts to the offerors whose proposals represent the best overall value to the government and advised that proposals would be evaluated on technical, past performance and cost factors, with the technical area significantly more important than both the past performance and cost areas combined. RFP § M.4.2. The RFP stated that, as part of the best value determination, the relative advantages and disadvantages of each proposal would be considered and that the agency would assess the relative risks associated with each offeror and proposal. RFP § M.4.1.

As relevant here, the technical area included technical approach, facilities and schedule, and logistics engineering. RFP § M.4.2.1 and Amendment 3. The RFP provided that each of these elements would be evaluated on the basis of risk to the government of meeting the requirements specified in the solicitation. RFP §§ M.4.2.1.1; M.4.2.1.2; M.4.2.1.3. As noted above, the PD contained in the RFP listed performance/verification objectives and advised that if an offeror proposed a desired

[4] Section 3.1.1 outlined the requirements for water quality standards; 3.1.2 outlined requirements for flow rate; 3.1.3 listed weight restrictions; 3.1.4 and 3.1.5 gave containerization and operational requirements; 3.1.7 provided intake requirements; and 3.1.11 listed required disinfectant capabilities. Section 3.2.6 outlined required fuel and power interfaces and section 3.2.11 listed water quality and flow monitoring requirements. Section 3.3.1 listed the requirements related to nuclear, biological and chemical contamination (NBCC) survivability; 3.3.4 provided the environmental conditions the proposed unit should tolerate; and 3.3.6 specified, among other things, that the unit was to be resistant to corrosion, moisture, fungus and oxidation.

performance characteristic,[5] the evaluation must show that the desired performance characteristic is achievable at moderate to low risk in order for the performance characteristics to be considered an advantage in the appropriate element. RFP § M.4.2.1 and Amendment 3. No additional credit was to be given for performance beyond the desired level. Id.

Finally, the solicitation incorporated by reference FAR § 52.215-16 Contract Award, Alternate II, which states, in relevant part, that the agency intended to award the contracts without discussions and that, therefore, each initial offer should contain the offeror's best terms. The agency reserved the right to conduct discussions if it later determined that discussions were necessary. Id. The RFP reiterated at Section M.6 that "it is important that the offeror's initial proposal be complete and comprehensive," and advised that if discussions were held, they would be in accordance with FAR § 15.610, which provides, in relevant part, that discussions would be held with all responsible offerors who submit proposals within the competitive range. FAR § 15.610(b).

Eighteen offerors, including AMS, submitted proposals by the March 30, 1998 closing date. After an initial review, seven proposals were eliminated as technically unacceptable and another offeror withdrew. The agency then asked for additional information from the remaining 10 offerors in the form of written items for discussion (IFD). The record shows that TACOM issued more than 30 IFDs to AMS requesting additional information regarding its proposed purification system. Each IFD provided a relevant RFP reference, specific pages in the proposal that required clarification and questions to be answered. For example, IFD A-T-TA-MS-1 listed section L.11.2.1, Design Concept, of the RFP and noted that this section requires technical data on major components and a rationale for their selection. Citing pages 25 through 28 of the AMS proposal, TACOM asked AMS:

> How do you propose to prevent debris from entering the [deleted] and [deleted]? How do you propose to prevent [deleted]? Please provide all necessary information (size, weight, location, power requirements, performance characteristics, etc) to evaluate any components you propose to use for debris removal and [deleted] prevention.

IFD A-T-TA-MS-1.

Other IFDs issued to AMS requested information on AMS's proposed cleaning system; calculations or modeling to support AMS's assertions regarding flow rate; detailed overall and component [deleted] and [deleted] calculations; electrical

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[5] The PD specified that minimum acceptable performance threshold requirements were indicated with the word "shall" and that capabilities that the agency desired but were not mandatory were indicated with the words "should," "desired," or "desirable." RFP, PD § 3.1.

schematic of the high voltage system including all contactors, circuit breakers and other high voltage controls, the size and weight of the enclosure and the high voltage components installed in the enclosure; correct [deleted] motor size and necessary supporting data for the [deleted]; calculations showing the maximum [deleted] that can be tolerated and still meet the production requirement; calculations to support AMS's estimates of water production at various temperatures and turbidities; and detailed description of the power requirements for the [deleted], overall [deleted] on the [deleted] process and the temperatures and flow rates of the incoming feed, product, concentrate, [deleted], and [deleted].

Based on responses to the IFDs and proposals, members of the source selection evaluation board (SSEB) evaluated the 10 proposals and reached a consensus on the advantages, disadvantages, and risks of each proposal. For each evaluation element, the SSEB assigned adjectival ratings of "excellent" (low risk); "good" (low to moderate risk); "adequate" (moderate risk); "marginal" (moderate to high risk); and "poor" (high risk)[6] and provided narratives supporting the assessment.

Of the 10 proposals, AMS's proposal was ranked next to last, with adjectival ratings of "poor" for technical approach, "marginal" for facilities and schedule, and "good" for logistics engineering. The SSEB noted 7 advantages and 19 disadvantages under technical approach and 2 disadvantages under facilities and schedule.[7] The SSEB concluded that the AMS proposal demonstrated:

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[6] As relevant here, a rating of "good" (low to moderate risk) was assigned to a proposal which demonstrated a sound approach which was expected to meet all requirements and objectives and contained solutions which were considered feasible, practical, clear and precise and were supported. A "marginal" rating (moderate to high risk) was assigned to a proposal which demonstrated an approach which may not be capable of meeting all requirements and objectives and contained solutions which may not be feasible and practical, lacked clarity and precision and were generally unsupported. A "poor" rating (high risk) was assigned to a proposal which demonstrated an approach which would not be capable of meeting all requirements and objectives because it contained solutions which were not feasible and practical, lacked clarity and precision and were unsupported. Source Selection Plan at 17-18.

[7] For example, the agency noted an increased risk of not meeting: (1) the water quality standards requirements because [deleted] will not remove all organic contaminants from the feed water; (2) the flow rate requirement because the calculations for sizing of [deleted], pumps and [deleted] were not provided; (3) the maintainability requirement because, among other things, the [deleted] and [deleted] will be difficult to repair in the field, and the proposal contained no data documenting the maintenance of the system when operating on a natural water

(continued...)

> an approach that will not be capable of meeting all the requirements and objectives. The risk of unsuccessful performance is high, because of [a] lack [of] detail in the design and lack of actual supporting data. The solutions are further considered to reflect high risk in that they lack clarity or precision, are unsupported and do not demonstrate an understanding of the requirements.

Evaluation Work Sheet at 5.

The agency determined to include five proposals within the competitive range,[8] and eliminated AMS's proposal, among others, on the basis that it had no reasonable chance for award. By letter dated August 31, TACOM notified AMS that its proposal was outside the competitive range and would not be considered for award. The letter included an attachment listing each of the advantages and disadvantages noted by the SSEB. After a debriefing, AMS protested to our Office.

AMS challenges, in sententious detail, each of the evaluated technical disadvantages cited by the agency and argues that its proposal was misevaluated because "TACOM did not understand the operating characteristics of [AMS's] proposed [deleted] technology." Protester's Comment's, November 27, 1998, at 9. Specifically, AMS proposed a [deleted] system, which uses a specialized [deleted] process known as [deleted] to purify water rather than the reverse osmosis technology proposed by the other offerors whose proposals were included in the competitive range. The reverse osmosis technology is a process of separating water from its impurities by forcing the water under pressure through a semi-permeable membrane, referred to as a reverse osmosis, or RO, element. In contrast:

(...continued)
source; and (4) the noise requirement because the offeror did not provide noise data for any system components other than the [deleted]. The agency assigned high risk ratings for AMS's proposed system because the system exceeded the height and width requirements and would not fit inside the specified shipping container or on the bed of a 5-ton truck, as required by the solicitation. The agency also assigned the proposed system a high risk rating because the evaluators determined that it would be difficult to deploy. The agency assigned a disadvantage and moderate risk assessment on meeting the milestone schedule and producibility because of the large geographical distance between AMS and [deleted], a [deleted] firm which is AMS's proposed subcontractor. Evaluation Work Sheet.

[8]The two highest-rated proposals in the competitive range were assigned adjectival ratings of "good" on each of the three technical evaluation criteria. None of the five competitive range proposals received less than an "adequate" rating under any of the technical evaluation criteria.

> The [deleted] process [deleted] and then [deleted]. The process of [deleted] impurities.

AMS Proposal at 25.

The protester takes the position that the agency is unfamiliar with its proposed [deleted] technique and, therefore, misunderstood the technology. The protester also asserts that TACOM failed to consider or ignored technical data supplied by AMS, evaluated its proposal on the basis of unstated evaluation factors, and subjected its proposal to unequal treatment by applying overly rigorous or onerous evaluation criteria.[9] Protester's Comments, November 27, 1998, at 10, 17-18. AMS believes that, had its proposal been evaluated properly, it would have been included in the competitive range. The protester also states that "AMS prepared its offer in anticipation that TACOM would ultimately conduct discussions," and argues that the agency improperly failed to conduct discussions with AMS. Protest at 13. Finally, AMS claims that the procurement is flawed because offerors did not propose on a common basis. Supplemental Protest at 4.

In reviewing an agency's technical evaluation and its competitive range determination, our Office will not reevaluate the proposals; rather, we will examine the record to ensure that the evaluation was reasonable and in accordance with the solicitation's evaluation criteria. Cobra Techs., Inc., B-272041, B-272041.2, Aug. 20, 1996, 96-2 CPD ¶ 73 at 3. The protester's mere disagreement with the agency does not render the evaluation unreasonable. Ogden Support Servs., Inc., B-270354.2, Oct. 29, 1996, 97-1 CPD ¶ 135 at 3.

Based on our review of the record, we see no basis to question the reasonableness of either the agency's technical evaluation or the resulting decision to exclude AMS's

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[9] AMS argues that our decision in Univox California, Inc., B-210941, Sept. 30, 1983, 83-2 CPD ¶ 395, where we sustained a protest concerning the Army's acquisition of a RO water purification system, is especially relevant here. We disagree. In Univox, the protester argued that the agency's evaluation of its proposed system was improper because the agency misread its proposal and test reports, relied on unverified and erroneous data obtained from sources other than the procurement record, and ignored data contained in the Army's own files. We sustained the protest because we found that the procuring agency ignored the data Univox had submitted with its proposed RO system and relied on data it generated itself. Additionally, the Army did not explain its own calculations or submit documentation to support its contentions, while the protester fully documented its position. Here, in contrast, the agency did not generate its own data but used the data supplied by the protester to evaluate the protester's proposed system. Moreover, the agency has submitted its complete evaluation record and explained and justified its evaluation to rebut the protester's allegations.

proposal from the competitive range.[10] The evaluated technical disadvantage ratings assigned to the AMS proposal either concerned specifications that the proposed [deleted] unit simply did not meet or, more frequently, related to the agency's overriding concern that AMS's proposal provided insufficient information on major technical requirements to demonstrate the feasibility of AMS's proposed system. Specifically, for more than half of the 19 evaluated technical disadvantages, the evaluators noted that AMS failed to adequately respond to the IFDs issued by TACOM because the protester did not provide the data requested to support its performance claims. In this regard, it is an offeror's responsibility to prepare an adequately written proposal and to furnish all the information required by the solicitation, and an agency properly may downgrade an offer with significant informational deficiencies. Intown Properties, Inc., B-250392, Jan. 28, 1993, 93-1 CPD ¶ 73 at 5; Cook Travel, B-238527, June, 13, 1990, 90-1 CPD ¶ 571 at 6. Here, as discussed below, the record shows that AMS failed to present the required specific information in the majority of the areas in which the firm's proposal was found deficient. In addition, the agency reasonably concluded that AMS's proposal simply did not meet the RFP requirements.

For example, the record shows that AMS's proposed system did not meet crucial height or width limitations specified in the RFP. Specifically, PD § 3.1.4 Containerized Loads, as amended by Amendment 7, outlined the requirements for containerized loads and required that the purification system when mounted on the [container roll-in/out platform] CROP, "shall fit and be secured inside a single 8 foot x 8 1/2 foot x 20 foot International Organization for Standardization (ISO) shipping container." The amendment specified that the ISO door opening was 89 inches, RFP, Amendment 7, ISO 668 International Standard, Table 3, and also specified that the CROP height was 10.5 inches. RFP, Amendment 7 § 3.15.1. The agency required 2 inches for maneuverability. Id. § 3.8.1. Thus, the maximum acceptable height of the system is 76.5 inches (89 inch door opening less the 10.5 inch CROP height and the 2-inch maneuverability allowance).

PD § 3.1.5 Operational Platform, as amended by Amendment 7, required that the purification system be capable of operating from the ground in the skid-mounted configuration, on the bed of a standard military stretch trailer and on the bed of a standard military 5-ton cargo truck. Amendment 7 provided a sketch of the 5-ton cargo truck, which indicated 168-inch inside and 174-inch outside bed length dimensions and 88-inch inside and 96-inch outside bed width dimensions. The outside width dimension is provided to enable the installation of guard rails.

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[10] As noted above, in its several submissions to this Office, AMS challenges every disadvantage cited by the agency in its evaluation of the protester's proposal; TACOM responded to each argument, explaining and justifying its evaluation of the proposal; intervenors responded as well. While we will not discuss all of AMS's allegations, we have reviewed them all and, as illustrated by the examples discussed, we find them without merit.

AMS initially proposed an overall length of 115 inches, overall width of 91 inches and overall height of 78 inches. AMS Proposal at 79. The proposed height of 78 inches exceeds by 1.5 inches the agency's specified limitation and the proposed width of 91 inches exceeds by 3 inches the 88-inch width limitation specified in Amendment 7. In IFD-A-T-TA-KMO-01, TACOM asked AMS to provide dimensional sketches of the trailer, the 5-ton cargo truck and the CROP operational platforms, showing dimensions and the connection points of hoses and cables to the remotely located components of the system. In response, AMS submitted a one-page narrative and drawings of the proposed [deleted] operated on a trailer, a truck, the CROP and on the ground. For each condition, the length, width and height dimensions of the [deleted] are listed as 91.1 inches, 90.4 inches and 81.5 inches, respectively. Thus, in response to the IFD, AMS increased the overall height of its proposed system to 81.5 inches and decreased the width of its proposed system to 90.4 inches. The 81.5-inch height dimension is 5 inches greater than the 76.5-inch maximum height requirement and the 90.4-inch width is 2.4 inches greater than the relevant 88-inch inside width requirement. As a result, the agency assigned AMS's proposal a disadvantage rating on the containerized loads requirements and noted that there was "[h]igh risk that [the] system will not fit inside an ISO container when mounted on a CROP because of the proposed system height." Evaluation Work Sheet at 6. The agency also assigned a disadvantage rating for the operational platform requirement and stated that there was a "[h]igh risk that system will not fit on the bed of the 5-ton truck because of the proposed width of the system." Id. at 6-7.

In its protest, AMS admits that the height of its proposed system is "5 [inches] over the limitation" and that its proposed width "is only 2.4 [inches] over the stated limitation of PD 3.1.5" but argues that the overall height and width "could easily be reduced" and suggests that the evaluation is somehow flawed because TACOM assessed the risk based on the dimensions of the system, yet the "procurement involves performance specifications, not design specifications." Protester's Comments, November 27, 1998, Exhibit 1 at 22-23. The protester also asserts that these matters "can be easily addressed during discussions." Id. at 22.

As noted above, the specifications were listed in the PD under the general heading of "System Requirements." While the requirements consisted primarily of performance specifications, the PD specifications also included design, logistics and readiness requirements. It is self-evident that the containerized load and the operational platform requirements were intended to ensure that the agency could safely transport and operate the unit. The height and width limitations were clearly stated as a solicitation requirement and the record shows that the protester's proposed purification unit did not conform to either the height or the width restrictions. The fact that the protester now claims that it could have reduced the overall dimensions is inconsequential because the agency properly evaluated the proposal on the basis of the nonconforming height and width that were actually proposed. Moreover, the protester's assumption that these issues could be addressed during later discussions ignores the RFP provisions, noted above, informing offerors that the agency intended to award without discussions and repeatedly advising offerors to submit

complete and comprehensive initial proposals. Indeed, our review of the record, particularly in light of the protester's statement that it "prepared its offer in anticipation that TACOM would ultimately conduct discussions," Protest at 13, suggests that the protester misunderstood or ignored the RFP provisions concerning discussions and relied, to its detriment, on its misperception that TACOM would hold later discussions with all offerors. Moreover, TACOM asked AMS to look at its proposed dimensions when it requested, among other things, that AMS submit dimensional sketches of the 5-ton cargo truck and, in response, the protester failed to cure the obvious proposal deficiencies. We view the IFD process as discussions during which, as noted before, AMS was issued numerous specific requests for additional information, supporting data and explanation of its proposed solution, consistent with the FAR § 15.610(c) description of discussions as advising the offeror of deficiencies in its proposal and providing an opportunity for the offeror to submit revisions.

For 12 of the 19 evaluated technical disadvantages, TACOM specifically noted in its evaluation that the protester failed to submit adequate responses to the agency's IFDs or supporting data for its proposed purification system. For example, RFP, PD § 3.1.2, which provided flow rate requirements, stated that:

> The . . . system shall produce at least 1200 gallons of product water per hour (gph) from a source with 45,000 [milligrams per liter] mg/L [total dissolved solids] TDS and 1500 gph or greater from a source containing 1,000 mg/L of TDS; turbidities of up to 150 [Nephelumetric Turbidity Units] NTUs; and temperature ranges from 32 to 95 F.
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> It is desired to have a product water production rate of 1200 gph from sources containing 60,000 mg/L of TDS. It is desired to have the product water production rate independent of source water temperature.

AMS's proposal states that its proposed system "can purify [deleted] gallons of fresh drinking water per hour," Proposal at 71, and that the water production of its system was [deleted]. Id. at 71-74. However, the proposal contained no supporting documentation or design calculations. In IFD A-T-TA-MS-3, TACOM notified the protester that its proposal was incomplete and requested that AMS provide, among other things, technical data on major components of its system, calculations or modeling to support flow rate, a detailed overall and component [deleted] of the proposed system operating under specified conditions, [deleted] calculations for all [deleted], stating all assumptions (such as inlet/outlet temperatures, flows, [deleted], fouling factors, etc), [deleted] calculations and supporting data for selection of pumps (feed, [deleted], waste and recirculation), [deleted]. Supporting data was to include the manufacturer's technical specification sheet, pump to [deleted] characteristic curves, component size, weight, and power requirements. In IFD A-T-TA-MS-7, TACOM also requested that AMS provide the [deleted] motor size and "supporting data for the sizing."

The agency found AMS's response to the IFDs inadequate and assigned AMS a disadvantage for increased risk of not meeting the flow rate requirement because AMS failed to provide the required calculations for sizing of [deleted], pumps and [deleted]. In its report on the protest, the agency points out that the protester failed to provide component [deleted], [deleted] calculations for [deleted], and [deleted] calculations for components. Also, the protester failed to supply supporting data for [deleted] motor sizing.

The protester disagrees with the assessment and points to "18 pages of data, calculations, manufacturer's literature, and several pages of rationale" which the protester argues did supply the information requested by TACOM, including overall and component [deleted] for multiple operating conditions, and computerized flow charts listing major components with calculations showing the required energy use for each component. Protester's Comments, November 27, 1998, Exhibit 1 at 9. The protester also states that it "effectively provide[d] the [deleted] calculations for all the [deleted]" and says that the [deleted] "are necessarily incorporated into the Computerized Flow Models provided by AMS." Id. at 9-10. The protester also notes that it specifically stated that the [deleted] of the [deleted] is "based on a [deleted] of [deleted] units because they are effectively the same units increased in a modular fashion."[11] AMS's Response to Items for Discussion Control Number A-T-TA-MS-3 at 1.

We have reviewed the AMS proposal and its responses to IFDs A-T-TA-MS-3 and -7 and find no basis to conclude that the agency unreasonably evaluated the AMS proposal or that it ignored data supplied by the protester. Specifically, the record supports the agency finding that AMS provided the overall system [deleted] for its proposed system but no component [deleted]. While these component [deleted] may be, as the protester explains, incorporated into the underlying data and part of the computer program used to generate the computerized flow charts of the overall system [deleted], they were not provided to the agency, as requested. Additionally, contrary to the protester's assertions, the data supplied does not contain [deleted] calculations for, among other things, pumps or [deleted]. We note that, while the protester makes the blanket statement that it provided this information, and specifically referenced its responses to several IFDs, the protester never indicates where in the more than 20 pages referenced it included the information the agency says is lacking. As noted above, it is the offeror's responsibility to prepare an adequately written proposal; and an offeror runs the risk of having its proposal rejected if it fails to do so. Cook Travel, supra at 6.

With respect to the protester's statement that the [deleted] of its [deleted] is based on a [deleted] of its [deleted] unit, the agency points out that, while the protester's [deleted] unit is not defined in the proposal, it is approximately 1/30th the capacity of

[11] The reference to "[deleted] units" refers to [deleted] smaller [deleted] system. The [deleted], offered here, is based, in part, on the [deleted] system.

the proposed system. Because it was not known whether the system would behave in a linear fashion if it were scaled up, the agency properly assigned an increased risk for this element. Finally, and again contrary to the protester's assertion, while AMS did clarify its [deleted] motor size in its response to IFD A-TA-MS-7, AMS did not provide any supporting data. Rather, the protester provided a characteristic curve to suggest that its system's power consumption decreases to 36 [kilowatts] Kw when operating under [deleted]. However, AMS offers no calculations or data to support this assertion other than a manufacturer's chart with what appears to be a hand-drawn line inserted by the offeror showing the power level AMS says it can achieve. Based on this information, the agency reasonably assigned the AMS proposal a disadvantage rating.

Similarly, AMS complains that the evaluated disadvantage relating to PD § 3.1.1 was improper. This PD outlined the water quality standards that the purification system was to meet and specifically stated that, among other things, the system shall meet the standards given in the Tri-Service Field Water Quality Standards and that the system shall be capable of purifying nuclear, biological and chemical (NBC) contaminated source water.

The agency found an increased risk that AMS's proposed system might not meet the water quality standards, Evaluation Work Sheet at 6, and in its report cited, among other deficiencies, the fact that AMS had provided test results in a report from [deleted], a consulting firm that had performed a 1997 test of the [deleted] unit, for only 3 of the 18 contaminants listed in the Tri-State Standards.

While AMS argues that, in fact, its proposed system produces water that is of greater purity than what is required by the RFP and that its data was sufficient, the protester never specifically rebuts the agency's assessment that AMS failed to provide data for 15 contaminants, and it does not point to anything in its proposal that suggests that it did report on all 18 contaminants. Our review of the report shows that there is no information relating to test results for arsenic, cyanide, Lindane or sulfate and, in fact, the protester's cover letter attached to the [deleted] report specifically states that "[t]he contamination with Lindane is not mentioned in the report." Response to Items for Discussion (IFD) Control Number A-T-TA-DB-1 at unnumbered page 1. Under these circumstances, we have no basis to object to the agency's assignment of a disadvantage.

Finally, the RFP requires that the noise level of the proposed system "shall not exceed 85 [decibels] dB(A) at the operator's position." RFP, PD § 3.4.4.2 Noise Limits. In IFD A-T-TA-RA-02, TAMCO asked AMS to "provide the actual noise test data from the [deleted]." In response, AMS stated that "[a]ctual noise level measurements on the [deleted] without additional housing resulted in 108 dB(A)" and that:

Taking in consideration that

-[deleted] being located inside the [deleted]
-[deleted] housing end thickness of 0.4"
-shell thickness of 0.25"
-distance to the operator's position of approx[imately] 100"
-use of sufficient insulated and noise absorbing material

a noise level of approx[imately] 74-75 dB(A) at the operator's position can be achieved.

Response to Items for Discussion [IFD] Control Number A-T-TA-RA-02 at unnumbered page 2.

TACOM assigned a disadvantage on this requirement because the proposed [deleted] has a noise level of 108 dB(A). In its report, TACOM stated that AMS's claim of a noise level of 74-75 dB(A) was not supported by data, calculations or test results, as required by section L.11.2 of the RFP. The agency also states that, while AMS proposed an "enclosure," the enclosure was not well defined in the proposal and AMS "failed to identify the material or thickness that would be used for noise insulation . . . ." Contracting Officer's Statement ¶ 38.

AMS argues that the assessment is unreasonable and that "TACOM assigned the disadvantage based on the 108 dbA figure in AMS' IFD response, not because of any allegation of lack of data." Protester's Comments, November 27, 1998, Exhibit 1 at 37. In any event, the protester asserts that it supplied the data in its IFD response.

Contrary to the protester's assertion, there is no supporting documentation in its response to this IFD which substantiates AMS's claim that it can achieve the required 85 dB(A) noise level. In AMS's response, the protester included the narrative, quoted above, stating that it could achieve the noise requirement, a two-dimensional sketch showing the location of the maximum sound from the [deleted], a sound report from [deleted], reporting the 108 dB(A) sound level and a fan performance curve, which AMS does not explain. AMS simply does not provide any supporting data for its assertion in any of these submissions. In sum, we find unobjectionable the agency's assessment of the numerous disadvantages associated with the AMS proposal.

The protester also alleges that the procurement was flawed because offerors did not propose technical solutions on a common basis. To support this allegation, the protester points to the different micron screen models and sizes that were proposed by the offerors. Supplemental Protest at 2.

As noted above, the solicitation contained primarily performance specifications, which set forth the agency's performance, rather than particular design requirements. Such specifications do not require that the offeror meet a specific design requirement, but allow each offeror to propose solutions that they feel will

best meet the specified performance needs. Isratex, Inc., B-253691, Oct. 13, 1993, 93-2 CPD ¶ 221 at 3. The RFP contained no specification that required offerors to propose a specific size micron screen, hence, offerors were free to propose the size they determined would best meet the performance requirements. Under these circumstances, we see no basis for objection.[12]

Finally, the protester argues that TACOM treated it unfairly and "made it more difficult for AMS than for all other offerors to compete in this procurement." Supplemental Protest at 4. To support this allegation the protester argues that the agency required AMS to submit more technical information and data than the other offerors, and specifically states that "TACOM did not require any of [the other offerors] to submit 'data documenting the maintenance of the system'" or the test data used to produce their computer models. Id. at 5.

In response, the agency explains that, regardless of the technology proposed, disadvantages were assessed against all offerors who failed to provide the required documentation, noting that four offerors, in addition to the protester, were assessed as having a disadvantage of increased risk of not meeting the maintainability requirements because they did not provide data documenting the maintenance of all or part of their proposed systems. As to computerized models, the agency reports that none of the offerors were asked for any information that was not outlined in section L.11.2.1 of the RFP. The agency also points to numerous instances where other offerors were assessed disadvantages for failing to provide supporting data. Additionally, the agency notes that the computer models submitted by the other offerors are sophisticated mass transfer models created by RO membrane manufacturers. These models are published with the fundamental design equations and assumptions. In contrast, AMS's proposed system is, as the protester itself admits, newer technology. Published data supporting the performance of the system is apparently unavailable, or, if available, was not submitted to TACOM by the protester. In short, there is no evidence that AMS was subjected to different or unequal treatment by the agency.

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[12] Moreover, to the extent that the protester is arguing that the RFP requirements lack specificity, the protest issue is untimely because, under our Regulations, a protest based upon alleged improprieties in a solicitation which are apparent prior to the time set for receipt of initial proposals must be protested prior to the time set for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1) (1998).

In view of AMS's low ranking, which was reasonably based on the material dimensional noncompliance and the significant informational deficiencies associated with AMS's proposed purification system, the agency reasonably eliminated the proposal from the competitive range.

The protest is denied.

Comptroller General
of the United States