



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

REDACTED DECISION

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Matter of: Wyle Laboratories, Inc.

File: B-260815.2

Date: September 11, 1995

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DIGEST

1. Incumbent contractor's protest that the agency improperly downgraded its proposal in the evaluation because the protester's proposal relied heavily on historical examples to show how the protester would do the required work is denied where the request for proposals' evaluation provisions clearly required offerors to set forth their approaches to doing certain tasks, and the evaluators reasonably found that the protester's explanations of how the work would be accomplished were inadequate.
2. Protest that the agency's technical evaluation and cost realism analysis of the awardee's proposed man-years and salaries/labor rates was inadequate is denied where the agency reasonably determined, after receiving advice from the Defense Contract Audit Agency, that: (1) the awardee's proposed man-years were adequate to perform the work in accord with the awardee's proposed approach; (2) the awardee's proposed labor rates exceeded the required Service Contract Act rates; (3) the awardee's salaries/labor rates were comparable to the protester/incumbent contractor's; and (4) the awardee would be able to recruit and retain competent personnel at its proposed salaries/labor rates.
3. Contracting agency reasonably awarded contract on the basis of initial proposals without discussions where: (1) the request for proposals warned offerors that the

agency might make award on an initial proposal basis; (2) the awardee's proposal received the highest ratings in the technical and management evaluations; (3) the awardee's proposed costs were the lowest by a large margin; (4) the awardee's proposal had no significant weaknesses requiring discussions; and (5) the awardee was rated as a low performance risk based upon a demonstrated performance record.

DECISION

Wyle Laboratories, Inc. protests the Department of the Air Force's award of an operational support services contract to Sverdrup Corporation pursuant to request for proposals (RFP) No. F04611-94-R-0026. Wyle contends that the Air Force: (1) evaluated its proposal incorrectly; (2) did not conduct an adequate cost realism analysis and technical evaluation of Sverdrup's proposal; and (3) should have held discussions.¹

We deny the protest.

Issued on July 18, 1994, the RFP solicited offers for operations support services at the Phillips Laboratory, at Edwards Air Force Base, from the period from April 1, 1995, through September 30, 1999. The RFP contemplated award of a cost-plus-award-fee contract with an 8-percent award fee. The contractor will be required to reconfigure test facilities and systems, perform test operations, provide test operations support, and maintain test facilities and systems used to perform research and development of materials and hardware relating to propulsion and space systems.

The RFP stated that award would be made to the responsible offeror whose proposal met the solicitation requirements and was determined to be the most advantageous to the government. The RFP indicated that offers would be evaluated in the following three areas (listed in descending order of importance): (1) technical, (2) management, and (3) cost. The technical area was to be evaluated on three equally weighted factors: experimental facility/system modification, research and development test operations support, and research facility maintenance. The management area was to be evaluated on four factors (listed in descending order of importance): program management, safety and environmental

¹The protester raised a host of issues and arguments in its several letters to our Office. While we reviewed all of the issues and the voluminous arguments supporting them, they provided no basis for overturning the agency's decision to award to Sverdrup. We will address only the most significant issues and arguments in this decision.

compliance, quality assurance, and security. Cost was to be evaluated for realism, completeness, and reasonableness, and the RFP stated that the government would calculate a most probable cost for each proposal.

Six firms submitted proposals by the August 4, 1994, closing date for submission of initial proposals. After evaluating proposals for technical and management merit, the Air Force determined that Sverdrup's proposal was "far superior" to all other proposals and that there was no need to hold discussions or solicit best and final offers. The Air Force then conducted a cost analysis, incorporated recommendations made by the Defense Contract Audit Agency (DCAA), determined the most probable cost for each proposal, and concluded that Sverdrup's lowest-cost proposal was both realistic and reasonable. Accordingly, the Air Force determined that Sverdrup's proposal represented the best overall value and, on March 10, 1995, awarded the contract to Sverdrup. After a debriefing conference, Wyle, the incumbent contractor, protested to our Office. Contract performance by Sverdrup has been suspended pending our resolution of the protest, and, therefore, Wyle continues to perform the work under its existing contract with the Air Force.

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. A protester's mere disagreement with the evaluators' judgment provides no basis for finding the evaluation unreasonable. Id.; TRW Inc., B-258347, Jan. 11, 1995, 95-1 CPD ¶ 15. Here, Wyle protests that the evaluation of proposals was inconsistent with the RFP or otherwise unreasonable in a number of ways. We examined the evaluation documents in light of Wyle's assertions and find that the evaluation of Wyle's proposal was both reasonable and consistent with the RFP.

Wyle first contends that the Air Force improperly downgraded its proposal throughout the technical evaluation because the proposal emphasized historical examples rather than described its approach to performing the required work. Wyle points out that the RFP's proposal preparation instructions specified that experience and background on similar projects should be included in the proposal, and, therefore Wyle argues that it reasonably believed its proposal should emphasize examples demonstrating how it had addressed various tasks described in the RFP in the past. The protester states that its proposal contained historic examples and explanatory statements which together provided Wyle's technical approach.

While the proposal preparation instructions encouraged offerors to include historical examples to demonstrate their experience on similar projects, the RFP clearly required offerors to provide their own approach or methodology for doing the work for evaluation purposes. The RFP described the technical area evaluation in general, stating, "This criteria relates to the offeror's understanding of the technical requirements and soundness of proposed technical approach regarding experimental facility/system modification (factor), research and development test operations support (factor), and research facility maintenance (factor)." [Emphasis added.] Regarding the experimental facility/system modification evaluation factor, the RFP specifically stated, "The offeror's approach will be evaluated for adequacy in modifying facilities and systems to comply with Government provided specifications." [Emphasis added.] Regarding the research and development test operations support factor, the RFP stated, "Test operations support will be evaluated for coherent, comprehensive approach to conducting test operations." [Emphasis added.] Regarding the research facility maintenance factor, the RFP stated, "The offeror's proposed approach will be evaluated . . ." [Emphasis added.]

Contrary to Wyle's assertion, there is no evidence that the evaluators downgraded Wyle's proposal's technical rating because Wyle included a long list of examples of successfully completed, past contract work. In fact, the evaluation record is replete with statements showing that the evaluators were aware of Wyle's successful performance as the incumbent contractor and were convinced by that and by the proposal's examples that Wyle could do the work. However, the evaluation record also contains numerous statements showing that the evaluators simply did not think that Wyle had done an adequate job of showing in its proposal how it would do the work. For example, in evaluating Wyle's proposal on the experimental facility/system modification factor, one evaluator stated:

"Proposer has done this and is doing this type of work at [Phillips Laboratory] but he did a relatively poor job of portraying his ability to do this work in this proposal."

In evaluating Wyle's proposal in the research and development test operations support factor, the same evaluator stated:

"They've done all of this type of work before (how well, I haven't a clue) and it's amazing that they have given the absence of any coherent management system or scheme. Giving them the benefit of the doubt, risk in this area is rated as low."

The protester also provided to our Office several extracts from its proposal which, according to Wyle, show that the proposal's narrative and historical examples combined to give a full description of Wyle's proposed technical approach. After reviewing the excerpts, the evaluators' score sheets, and comparable portions of Sverdrup's proposal, we believe that the evaluation was reasonable. For the most

part, Wyle's descriptions of how it would do the work were general in nature while Sverdrup's proposal gave a much more detailed description of its approach. The excerpts from Wyle's proposal presumably are isolated examples which cast the most favorable light on its proposal. These examples provide no reason for us to disagree with the evaluators' numerous comments that support the evaluators' view that Wyle's discussion did not warrant a higher rating. Even though Wyle has apparently been performing successfully as the incumbent contractor, since an offeror is responsible for providing a full discussion of its technical approach and methodology within the four corners of the proposal, Wyle must suffer the consequences of failing to do so.² See Laboratory Sys. Servs., Inc., B-256323, June 10, 1994, 94-1 CPD ¶ 359; InterAmerica Research Assocs., Inc., B-253698.2, Nov. 19, 1993, 93-2 CPD ¶ 288.

The protester also contends that the evaluators unreasonably criticized its management proposal because Wyle's proposed program manager will work [DELETED] on the contract and its business manager and purchasing manager will [DELETED]. Wyle states that it is currently performing the contract for support services at Phillips Laboratory satisfactorily using such [DELETED]of personnel.

The agency explains that the support services contract that Wyle is presently performing encompasses both integration support services and operations support services.³ However, the Air Force has split the requirement into two different contracts, one for integration support services and the other for operation support services. Therefore, the present RFP includes only operations support for Phillips Laboratory, and a separate procurement will be conducted in the future for the integration support services requirement. The Air Force reports that, as the incumbent, Wyle is able to have its program manager, business manager, and purchasing manager [DELETED] under one contract; Wyle's proposal for the present operations support procurement is based on the assumption that Wyle will continue to perform the integration support effort.

The evaluators reasonably were concerned that Wyle might not be selected for award of the follow-on integration support contract and therefore considered the [DELETED], which assumed Wyle would win the companion contract, to pose additional risk. Wyle did not address how it would [DELETED] if it were no longer

²Apparently, Wyle prepared its proposal based on the belief that all of the evaluators were knowledgeable concerning Wyle's current performance. This was not the case nor was the agency required to use evaluators specifically familiar with Wyle's work.

³The integration support services are heavily oriented towards spacecraft integration engineering and are provided primarily to the Space Experiments Directorate.

performing the integration support services work. The evaluators also considered the commitment of these key positions to the operations support effort [DELETED] to be inadequate in view of the complexity of the work and the [DELETED] organization proposed. Thus, the evaluators considered this approach to be a management area weakness when evaluating the adequacy of Wyle's proposed resource levels for performing the management effort. Wyle's disagreement with the agency's assessment in this area provides no basis for finding the evaluation unreasonable. Id.

The protester next contends that the evaluators unfairly downgraded its management proposal because reports of performance and cost problems would be generated too late to permit corrective action. Wyle argues that the evaluators were wrong because it proposed to use the [DELETED] system which is capable of generating cost and schedule information on a daily basis and Wyle stated in its management proposal that it planned to [DELETED].

The RFP required proposals to describe systems for tracking cost performance, schedule adherence, and technical performance; the RFP also required a discussion of how cost, schedule, and technical data would be collected, analyzed, and used to focus management attention to potential problem areas. Wyle's proposal addressed identification of problem areas by stating that it would use [DELETED] to generate "red flag" reports identifying schedule and budget problems at [DELETED] percent of budget or [DELETED] days to delivery; it did not state that the software was capable of generating reports on a daily basis.

The evaluators reasonably were concerned because they believed the red flag reports generated at [DELETED] percent of budget or [DELETED] days to delivery would be issued far too late to permit management to take any meaningful corrective action. Moreover, the evaluators noted that Wyle's management proposal proposed [DELETED] cost reports, but did not indicate how the reports would be used by Wyle to identify problem areas. In view of the RFP's express requirement for a discussion of how cost, schedule, and technical data would be collected and used to focus management attention on potential problem areas, Wyle was downgraded because of its failure to more fully explain in its proposal the report-generating capabilities of the [DELETED] and how it intended to use those capabilities. See Laboratory Sys. Servs., Inc., supra. In the absence of a more detailed discussion of the report process in Wyle's proposal, we think the agency's evaluation of this area was reasonable.

The protester argues that its management proposal was unreasonably criticized by the evaluators because the proposal required employee reports concerning hazardous equipment and conditions to be reported to the [DELETED] who would then investigate the matter and determine whether the hazard report is valid. Wyle

claims that its hazard report validation process is good and that it is in strict accord with Air Force Regulation (AFR) 127-2 which governs Air Force hazard reporting programs.

The RFP required offers to explain procedures used for identifying and correcting environmental or safety problems and specifically stated that safety/environmental programs would be evaluated as part of the management area evaluation. The evaluators were concerned about Wyle's approach because they believed that the [DELETED] might have a conflict of interest [DELETED]. The evaluators thought a better approach would be to have someone on the safety staff, [DELETED] investigate and validate safety reports. We think that the evaluation was reasonable. Contrary to Wyle's assertion, our review of AFR 127-2 reveals that it contemplates reporting of hazards directly (and even anonymously, if desired by the reporter) to appropriate safety staff, [DELETED]. The protester also contends that its management and technical proposals were unreasonably criticized by the evaluators as follows:

(1) Wyle proposed that one person act as both [DELETED]. The evaluation team considered this staffing inadequate because one person would be responsible for [DELETED] and the evaluators believed that the [DELETED] program might suffer as a result.

(2) Wyle's proposed [DELETED] functions were "passive during [facilities/systems] modification efforts" required by the RFP. The evaluators were concerned because Wyle's proposed programs do not actively insert [DELETED] into modification efforts.

(3) Wyle proposed to initiate performance of various tasks with a kick-off meeting even though the RFP did not require such meetings. The evaluation panel believed this to be a sound technical management practice, but considered the [DELETED] to be a weakness because the kick-off meetings do not [DELETED].

After examining the protester's arguments, pertinent RFP provisions, the evaluation record, and the agency's response, we believe that the protester's challenges to these three evaluation findings are simply disagreements between the protester and the agency concerning the quality of Wyle's proposal. As noted above, a protester's disagreement with the evaluators' judgment provides no basis for finding the evaluation unreasonable. TRW Inc., supra.

The protester also alleges that the agency's cost realism evaluation of Sverdrup's proposal was inadequate. The protester points out that Sverdrup's proposed costs are substantially less than Wyle's,⁴ and states that Sverdrup could only achieve such a low cost by reducing the number of personnel on the contract and reducing wages and salaries. Wyle states that any reduction in the number of employees or salaries from current levels is unrealistic and will eventually lead to a deterioration in services. Therefore, Wyle argues that because Sverdrup proposed to [DELETED], the Air Force's technical evaluation should have considered Sverdrup's proposal as entailing greater performance risk. Wyle further asserts that, because Sverdrup is not the incumbent and will therefore have to hire an entirely new work force, the Air Force should have evaluated Sverdrup's ability to hire and retain a qualified work force.

The protester also contends that the cost realism analysis should have found that Sverdrup's proposed wages and manning levels were too low and that Sverdrup would not be able to hire the bulk of its work force from Wyle's present work force [DELETED]. To support its argument, Wyle submitted a chart comparing the salaries Wyle presently pays employees to Sverdrup's proposed salaries for the same or similar labor categories. Wyle alleges in its chart that Sverdrup [DELETED] than Wyle presently pays [DELETED] and asserts that, on average, Sverdrup will pay wages that are approximately [DELETED] less than Wyle presently pays.

Where an agency evaluates proposals for the award of a cost reimbursement contract, an offeror's proposed estimated costs of contract performance are not dispositive because, regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. Sabre Sys., Inc., B-255311, Feb. 22, 1994, 94-1 CPD ¶ 129. Consequently, a cost realism analysis must be performed by the agency to determine the extent to which an offeror's proposed costs represent what the contract should cost, assuming reasonable economy and efficiency. Because the contracting agency is in the best position to make this cost realism determination, our review is limited to determining whether the agency's cost realism analysis is reasonable. Id.

⁴Sverdrup's proposed costs plus award fee were [DELETED] and the agency estimated the most probable cost to be [DELETED]; Wyle's proposed costs plus award fee were [DELETED], and the agency estimated the most probable cost to be [DELETED].

This portion of Wyle's protest is grounded in several basic premises. The first premise is that Sverdrup proposed to do the work utilizing significantly less labor hours than the government estimated and set forth in the RFP and that Sverdrup did not justify its reduction in labor hours. The second is that Sverdrup's wages are drastically lower than Wyle's for virtually every labor category. The third is that Sverdrup will be unable to hire up to [DELETED] of Wyle's incumbent work force, [DELETED] because Wyle's workers would not be willing to work for Sverdrup [DELETED] in view of the extra work/responsibilities they would have to assume because of the first two premises. However, the record shows that Wyle's basic premises are flawed. More significantly, the record shows that the Air Force carefully considered these issues in its evaluation and reasonably determined that Sverdrup's approach would allow it to do the work with low performance risk.

The RFP's proposal preparation instructions contained a matrix showing the estimated number of man-years for each job title that would be needed to perform the work. The RFP stated that the estimates were for information purposes only and that offerors were free to deviate from the government's man-year estimates and to substitute their own labor categories, provided the proposal supported any deviations with a detailed rationale. That is precisely what Sverdrup did in its proposal.

Sverdrup proposed approximately [DELETED] than in the government estimate for the first year of the contract with similar [DELETED] for each of the other years. The record shows that the evaluators were aware of Sverdrup's deviations from the RFP's estimates and that they gave Sverdrup's proposal close scrutiny because of the [DELETED]. The evaluators also noted that Sverdrup eliminated some job titles and substituted some of its own job titles for those set forth in the RFP. The evaluation team examined Sverdrup's proposal and concluded that Sverdrup's proposed skill mix and man-hours were sufficient to perform the work given the technical and management approaches proposed by Sverdrup. The evaluators noted that Sverdrup's approach to the work included innovations that allowed it [DELETED]. The technical evaluation team also examined other [DELETED] innovations proposed by Sverdrup and concluded that Sverdrup had the ability to perform the technical and management effort with the proposed manning levels and staffing mix.

The salary comparison chart submitted by Wyle to support its protest is not entirely accurate and is misleading in some respects. For example, Wyle used the average of Sverdrup's proposed rates for several different levels of engineering positions, rather than setting out Sverdrup's actual salaries by engineering level or using a

weighted average based upon the number of man-years for each position. Thus, some of Sverdrup's engineers are actually paid more than the average salary set forth in Wyle's chart. The truth is that, while Sverdrup's proposed salaries were [DELETED] than Wyle's, Sverdrup's salaries were not [DELETED] as Wyle alleges. In addition, Sverdrup's proposed wages are in fact [DELETED] Wyle's for some critical positions, most notably [DELETED].

The record shows that the agency closely examined Sverdrup's proposed labor rates. The Air Force reports that almost all of the positions are governed by the Service Contract Act and that its review shows that Sverdrup fully complies with the Act's required wage rates. The record also shows that the Air Force compared Sverdrup's proposed rates to Wyle's and that Sverdrup's rates for [DELETED] Wyle's rates. Based upon this comparison, the agency's cost team reasonably concluded that Sverdrup's wages and salaries were comparable to Wyle's. The Air Force also reasonably and properly verified Sverdrup's costs, including wages, with the DCAA before concluding that Sverdrup's cost proposal was realistic and reasonable.

The Air Force also reports that its review of Sverdrup's past and present performance gave no indication that Sverdrup had any difficulty in recruiting or retaining a competent work force. In this connection, the agency reports that it is a common industry practice to hire a portion of the incumbent's work force upon being awarded a follow-on contract. The agency contends that the unemployment rate in the area of Edwards Air Force Base is very high for the type of workers required on this contract and, faced with the prospect of losing their jobs if Wyle does not win the future integration support services contract, Wyle's employee's might very well decide to take positions with Sverdrup to work on the present contract, [DELETED] if offered the opportunity. In any event, while Sverdrup's proposal estimated it would [DELETED] of the incumbent work force, Sverdrup clearly indicated in its proposal that most of the key personnel [DELETED]. Sverdrup also indicated that, in cases where it was unsuccessful in hiring one of Wyle's incumbent employees, it would [DELETED] and, if necessary, would [DELETED] until it was able to hire a new employee. The Air Force considered Sverdrup's hiring plan and reasonably concluded that Sverdrup had sufficient resources and experience to fill the positions with competent personnel. See Sabre Sys., Inc., supra.

Based upon the above discussion, we conclude that the Air Force's technical and cost evaluations of Sverdrup's proposal were reasonable. See GTT Indus., Inc., B-253461.2, Dec. 1, 1993, 94-1 CPD ¶ 164; Sabre Sys., Inc., supra.

The protester also contends that the Air Force should have conducted discussions instead of awarding the contract on the basis of initial proposals. Wyle argues that all of the evaluators' concerns regarding its proposal could easily have been clarified during discussions and corrected in a best and final offer, if necessary. Therefore, Wyle contends that the Air Force's decision to award the contract to Sverdrup on the basis of initial proposals without conducting discussion was unreasonable.⁵ We do not agree.

The record shows that after very thorough evaluations of all the factors in the technical and management areas and of proposed costs, Sverdrup's lowest-cost proposal received the highest technical and management ratings. Two other offers were also both lower in overall cost and superior to Wyle's in both the technical and management area evaluations. Individual evaluators examined proposals on the technical and management evaluation areas and related factors and risk; the individual evaluators supported their findings with descriptive narratives. Then, the evaluators together agreed upon consensus ratings for each proposal, using predetermined color codes⁶ to rate relative merit.

The final evaluation results for the four highest rated offers were as follows:

⁵In a related vein, Wyle argues that its proposal should have received a higher overall rating. To support this argument, Wyle submitted a proposed numerical scoring scheme in which each color rating was given a numerical point-range. For example, Wyle proposes that a green rating would have a range of from 2.5 to 3.5 points. Under this new scheme, Wyle attempts to rescore its entire proposal by averaging the point-scores for the various technical evaluation factors to achieve higher overall color ratings. However, in order to establish the unreasonableness of the evaluation, it is not enough that the protester disagree with the agency's judgment or that the protester point to alternative methods available to the agency. See Payco Am. Corp., B-253668, Oct. 8, 1993, 93-2 CPD ¶ 214. Here, Wyle simply has not shown that the evaluators' judgment was unreasonable. See TRW Inc., supra.

⁶The color codes were blue = exceptional; green = acceptable; yellow = marginal; red = unacceptable.

Offeror	Technical	Management	Perf. Risk	Cost ⁷
Sverdrup	[DELETED]	[DELETED]	[DELETED]	[DELETED]
Offeror A	[DELETED]	[DELETED]	[DELETED]	[DELETED]
Offeror B	[DELETED]	[DELETED]	[DELETED]	[DELETED]
Wyle	[DELETED]	[DELETED]	[DELETED]	[DELETED]

The cover letter accompanying the RFP clearly notified offerors that award might be made without discussions. The RFP also included Federal Acquisition Regulation (FAR) § 52.215-16, Alternate III, which warned that the agency intended to evaluate proposals and award a contract without discussions and advised offerors that their initial offers should therefore contain their best terms from a price and technical standpoint.

The source selection authority reasonably concluded that Sverdrup's initial proposal represented the best overall value and that discussions were unnecessary because Sverdrup's proposal: (1) was the lowest-cost proposal [DELETED];⁸ (2) received

⁷Proposed costs do not include proposed award fee.

⁸In a related matter, Wyle contends that the agency's comparison of Wyle's and Sverdrup's costs was faulty because Sverdrup's proposed labor costs for fiscal year 1995 were based upon only 9 months of performance while Wyle's were based upon 12 months. The RFP stated that only 9 months of services would be required during fiscal year 1995 (from January 1, 1995, through September 30, 1995); therefore, Wyle erred when it proposed on the basis of 12 months. Wyle's 1995 proposed labor costs were [DELETED] (including overhead and administrative and general expenses); adjusting its labor costs to reflect only 9 months of work would, therefore, amount to a reduction of approximately [DELETED]. However, Wyle's total proposed costs plus fee were about [DELETED] more than Sverdrup's (see note 4 above). Thus, because Wyle's total proposed costs would still exceed Sverdrup's by roughly [DELETED], and because Sverdrup's proposal was rated as significantly superior to Wyle's in the two most important evaluation areas (*i.e.*, technical and management), we do not believe that Wyle suffered any competitive prejudice. See PHP Healthcare Corp.; Sisters of Charity of the Incarnate Word, B-251799 *et al.*, May 4, 1993, 93-1 CPD ¶ 366. In this regard, we note that, in addition to Sverdrup's proposal, two other offers were lower in cost than Wyle's and were also rated as superior to Wyle's in both the technical and management area evaluations.

the highest technical and management ratings; (3) demonstrated a good performance record; and (4) had no significant weaknesses. In these circumstances, there is no basis to overturn the agency's selection of Sverdrup on an initial proposal basis. See Hornet Joint Venture, B-258430.2 Jan. 27, 1995, 95-1 CPD ¶ 55.

The protest is denied.

Comptroller General
of the United States