



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: EOD Technology, Inc.

File: B-266026

Date: December 18, 1995

J.W. Sharp for the protester.

Mary Beyers, Esq., and Steven W. Feldman, Esq., U.S. Army Corps of Engineers, for the agency.

Christine Davis, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably found that the protester's low-priced proposal was deficient because it omitted an important required sample report and contained inadequate sample maps, such that it was properly not selected for award, given the awardee's highly rated, reasonably priced proposal which contained no deficiencies.

DECISION

EOD Technology, Inc. protests the evaluation of its proposal, and the award of a contract to Human Factors Applications, Inc., under request for proposals (RFP) No. DACA87-94-R-0051, issued by the U.S. Army Corps of Engineers, for ordnance and explosive waste (OEW) remediation services on a time-and-materials basis at various military installations.

We deny the protest.

The remediation services contemplated by the RFP included site analysis; location surveys and mapping; geophysical surveys; sampling; and interim and permanent removal services. The RFP stated that the contractor might encounter the following types of OEW in performing its services: conventional and chemical munitions; hazardous, toxic and radiological waste; and chemical warfare material.

The RFP advised offerors that the government intended to make award on the basis of initial proposals, unless the contracting officer determined that discussions were necessary. See Federal Acquisition Regulation § 52.215-16, Alternate III. Under the RFP's "best value" evaluation scheme, the technical proposal was two times more important than the management proposal, which in turn was more important than the cost proposal. There were three technical factors listed in descending order of importance: (i) Scope of Work, (ii) Technical Approach, and (iii) Safety. There were four management factors listed in descending order of importance:

(i) Corporate Experience, (ii) Qualifications and Allocation of Personnel, (iii) Management Planning and Controls, and (iv) Organizational Structure.

The most important technical factor, Scope of Work, contained three subfactors listed in descending order of importance: (i) OEW Remediation Program, (ii) Work Plan, and (iii) Final Removal Report for OEW Removal Action. For the Work Plan subfactor, offerors were to demonstrate their level of understanding by providing "an example of a customer accepted Work Plan for an OEW removal action." The sample Work Plan was to include a customer-accepted Work, Data, and Cost Management Plan or similar document.¹

For the Final Removal Report subfactor, the RFP requested a customer-accepted Final Removal Report demonstrating how the contractor removed OEW from a given site. The sample Final Removal Report was to include "planimetric or topographic maps which show all significant ground surface features and ordnance removal sites."

Of the nine proposals received, the proposal submitted by Human Factors Applications, Inc. was the only one that contained no evaluated deficiencies. The Human Factors proposal also earned the highest technical rating, with 895 of 1,000 points, and the highest management rating, with 499 of 500 points, for a composite score of 1,394 points. In contrast, EOD's proposal earned 869 technical points (the second highest score) and 449 management points (the sixth highest score), for a composite score of 1,318 points (the second highest score). EOD's technical proposal contained evaluated disadvantages or deficiencies in 10 of the 12 subfactors.² The three evaluated deficiencies in EOD's technical proposal were (1) its failure to provide the required Work, Data, and Cost Management Plan under the Work Plan subfactor; (2) its submission of inadequate planimetric maps under the Final Removal Report subfactor; and (3) its failure to address the safety record of its proposed subcontractors under the Safety factor. EOD's management

¹The Work, Data, and Cost Management Plan was to provide a timetable and cost schedule for each phase of the project, delineate management and labor assignments for the project, and explain how costs will be controlled.

²Among the disadvantages found in EOD's technical proposal were its superficial and incomplete discussion of past OEW programs, a sample Work Plan that excluded various requested items, and "skimpy" quality control documentation that suggested a weak quality control program.

proposal contained eight evaluated disadvantages and one deficiency.³ The management proposal deficiency was EOD's inadequate response regarding its use of "Reserve Funds," a subfactor of the "Management Planning and Controls" factor of the Management Proposal.

Human Factors submitted the third-low-priced offer at \$6,840,815, which was lower than the government estimate of \$8,501,316, though above the protester's low-priced offer of \$5,500,924. However, EOD's proposal deficiencies and disadvantages caused the agency to doubt EOD's ability to perform the contract at its proposed price. The agency determined that an award to Human Factors represented the best value to the government in that "superior management and technical findings [regarding Human Factor's proposal are] sufficiently significant to outweigh any potentially perceived cost advantages of other offerors." Although the agency found that certain offerors (including the protester) might be able to correct their proposal deficiencies through discussions, the agency predicted that Human Factors would maintain its competitive advantage. Consequently, the agency made award to Human Factors without conducting discussions.

EOD protests that the agency engaged in "hypertechnical, form-over-substance" faultfinding in ascribing four deficiencies to its proposal. EOD claims that the alleged deficiencies were not material to its capability to perform the contract or to the agency's ability to evaluate its proposal. EOD therefore concludes that an award based on the significantly more expensive Human Factors proposal was unreasonable.⁴

In reviewing protests against an agency's technical evaluation, we will review the record to determine whether the agency's judgments were reasonable and consistent with the listed evaluation criteria and procurement statutes and regulations. Scientific-Atlanta, Inc., B-255343.2; B-255343.4, Mar. 14, 1994, 94-1 CPD ¶ 325; CTA, Inc., B-244475.2, Oct. 23, 1991, 91-2 CPD ¶ 360.

³Among the disadvantages found in EOD's management proposal were its proposal of the same person to serve as the quality control manager, director of engineering services, and project manager, and its failure to adequately address several RFP requirements, such as how the protester would implement multiple task orders, whether the protester had met its cost and scheduling milestones in other projects, and what procedures the protester would use to evaluate the progress of ongoing projects.

⁴EOD does not protest the validity of the numerous disadvantages found in its proposal, which the agency also documented and revealed to EOD at its debriefing.

The evaluation here was reasonable. The most important deficiency was the omission from EOD's sample Work Plan of the required customer-accepted Work, Data, and Cost Management Plan or similar document, which was an important element of the second most important subfactor of the most important technical factor.⁵ The protester states that it meant to submit a Work, Data, and Cost Management Plan—one which the Corps accepted in another project—but inadvertently forgot to do so. The protester states that the agency should have overlooked this failure, since the proposal elsewhere mentioned the Corps-accepted plan and described the procedures for developing such a plan. This argument is without merit. The offeror has the burden of submitting an adequately written proposal for the agency to evaluate, Caldwell Consulting Assocs., B-242767; B-242767.2, June 5, 1991, 91-1 CPD ¶ 530, and must demonstrate its qualifications within the four corners of the proposal. Here, the RFP required a documentary demonstration of the offeror's ability to produce an actual customer-accepted Work, Data, and Cost Management Plan, not a description of how the offeror would develop such a plan. Accordingly, the agency could reasonably find EOD's proposal deficient for failing to comply with this express, significant requirement.

The second most significant deficiency was EOD's submission of deficient planimetric maps in response to the "Final Removal Report" subfactor, under the most important technical factor. A planimetric map is one which shows the natural or man-made features existing on the land, such as rivers, roads, buildings, or utilities. In the context of an OEW removal project, the map must contain sufficient detail to pinpoint the location of buried ordnance. In response to the subfactor, the protester submitted its Raritan Arsenal Final Removal Report, which included three sample planimetric maps. The agency concluded that the protester's maps were unacceptable because they were so lacking in ground surface detail that it would be impossible to determine the location of ordnance in relation to any particular land feature. Having reviewed the protester's maps, we find the agency's judgment reasonable. The "maps" are more properly described as diagrams, or grids, and in fact do not appear to contain ground surface detail, which would have demonstrated the protester's understanding of the RFP mapping requirements. Although the protester argues that the government accepted the Raritan Final Removal Report, including the maps, each procurement is a separate transaction and the action taken on one procurement does not govern the conduct of all similar procurements; the simple assertion of inconsistency, without more, does not satisfy

⁵In addition to the missing Cost, Data and Management Plan, other documents in EOD's sample Work Plan were incomplete and were the basis of other technical disadvantages.

the protester's burden of affirmatively proving its case.⁶ See Martin Marietta Data Sys.; National Data Corp.; Technicon Data Sys. Corp. B-216310, et al., Aug. 26, 1985, 85-2 CPD ¶ 228.

We need only discuss these two most significant protested deficiencies, since either of these deficiencies, in combination with the protester's undisputed disadvantages, clearly was sufficient to justify making award to Human Factors based on its highly rated, reasonably priced proposal which contained no deficiencies.

The protest is denied.

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⁶The protester notes that its sample Work Plan contains a map for the Spring Valley Removal Project. This map, which was not prepared for a Final Removal Report, displays evacuation routes, not ordnance removal sites. It does not satisfy the plain requirements of the Final Removal Report subfactor, nor was it submitted for that purpose.