Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Chant Engineering Co. Inc.

File: B-280250

Date: August 7, 1998

Philip Chant for the protester.
Maj. Richard E. Grant and Julius Rothlein, Esq., Marine Corps, for the agency.
Adam Vodraska, Esq., and Jerold D. Cohen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Where protester had previously produced items similar to type being solicited, while awardee had previously produced the very same type of item, awardee reasonably received a higher past performance score than the protester, even though solicitation considered acceptable experience producing either the same or a similar type of item.

2. In evaluating proposals, the contracting agency reasonably assigned the minimum score to the life expectancy of the protester's product under the solicitation's reliability factor where the protester merely offered the minimum required life expectancy without providing a methodology that might support a longer life expectancy claim.

DECISION

Chant Engineering Co. Inc. protests the evaluation of its proposal and the award of a contract to Bauer Howden, Inc. by the United States Marine Corps under request for proposals (RFP) No. M00146-98-R-0003 for two aircraft fuel nozzle test stands.

We deny the protest.

The RFP's specification for the fuel nozzle test stand set out minimum requirements for design, manufacture, and delivery, and provided that "[t]his specification is for the express purpose of soliciting technical proposals and cost estimates for a nozzle test stand from an established contractor having experience in the design and manufacture of aircraft fuel components test stands." RFP § C, ¶ 1.1. The test stands will be used to test the performance characteristics of aircraft fuel nozzles and other fuel equipment components in accordance with the equipment's associated technical manuals. RFP § C, ¶¶ 3.2, 3.3.1.1. The required major

components of the test stand include a test stand enclosure and test sink, a fuel supply and control system, an operator console and instrumentation, and a patternator.[1] RFP § C, ¶ 3.2.1.

The RFP established minimum standards of reliability for the test stand by requiring that the item be designed for a mean time between failures (MTBF) of at least 500 hours and for a useful life (life expectancy) of 10 years (approximately 2,000 hours per year). RFP § C, ¶ 3.3.3. The RFP also required that an offeror furnish documentation that substantiates that its test stand meets the reliability requirements of section C, paragraph 3.3.3. RFP § C, ¶ 4.1.1.2. According to the RFP, "[t]hese requirements can be validated by the contractor by a theoretical study or by citing comparability to similar systems presently in use." Id. Reliability validation had to be provided for both MTBF and useful life. Id.

The RFP contemplated the award of a fixed-price contract based on the following evaluation factors, listed in descending order of importance:

1. TECHNICAL FACTORS

   A. Reliability
      1. [MTBF], which includes evaluation of the method used to determine the MTBF for the proposed test stand.
      2. Life Expectancy, which includes evaluation of the method used to determine the Life Expectancy of the proposed test stand.
   B. Warranty
   C. Training

2. PRICE

3. PAST PERFORMANCE

RFP § M, at 43. The RFP specified that the technical factors and past performance, when combined, were significantly more important than cost or price. Id.

For the past performance factor, the RFP instructed offerors to "describe [their] experience with producing the same or similar items within the last three (3) years." RFP § L, at 39. On the same page, the RFP also instructed offerors how MTBF and life expectancy would be evaluated under the reliability factor:

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[1]The patternator is used for testing fuel nozzle and other fuel equipment components "which require spray angle and patternation measurement." RFP § C, ¶ 3.3.2.4.

> Preference shall be given to those with the higher MTBF, i.e. 1500 hours of MTBF will be given a higher rating than those with [a] rating of 500, and the test stands with life expectancy of 15 years shall be given a higher rating than those with a life expectancy of 10 years. [An] MTBF of less than 500 hours shall be considered unsatisfactory. In addition, the methodology used in determining the MTBF and the Life Expectancy of the proposed fuel nozzle test life will be evaluated. Proven examples that can be validated shall receive a higher rating than theoretical studies (see section C, paragraph 3.3.3 and 4.1.1.2).

Three offerors, including Chant and Bauer, submitted proposals in response to the RFP. The agency's evaluators assigned Bauer the maximum score for past performance because the firm demonstrated that it had manufactured multiple test stands of the type being procured. Chant's proposal received the minimum acceptable score for past performance because, while Chant had designed and installed many types of test stands, Chant provided no evidence that it had designed a nozzle test stand with a patternator, the type of stand solicited here. For the reliability technical factor, Chant received a high score for MTBF and the minimum score for life expectancy, while Bauer received a high score for both MTBF and life expectancy.

Because Chant and Bauer received the same scores in all other areas of the technical evaluation, the differences in their scores for the past performance and reliability factors accounted for the total point difference in their technical scores and for Bauer's overall higher score for the technical factors. Although Chant's total price was $21,700 less than Bauer's, the contracting officer determined that Bauer's proposal represented the best value to the government, in light of its higher overall weighted score, and awarded the contract to Bauer for $452,250.[2] Chant requested and received a debriefing, and then filed an agency-level protest contesting the selection decision. After the agency denied the protest, Chant filed this protest with our Office.

Chant first contends that, because the RFP's past performance evaluation factor required only that an offeror furnish evidence that it is an established contractor having experience in the design and manufacture of similar items, and did not state that a preference would be given to an offeror who has made the same type of test stand before, Bauer, which has previously manufactured the same type of test stand, unfairly received a higher score for past performance than did Chant, which

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[2]Federal Acquisition Regulation § 52.212-1(g), incorporated in the RFP, informed offerors that the agency might award a contract without discussions. RFP § I, at 19. The Marine Corps did not conduct discussions with any of the offerors, and Chant does not contend that the agency should have done so regarding the past performance or life expectancy aspects of its proposal.

has made similar but not the same type of test stands. Chant argues that the agency's evaluators should have given Chant's proposal the highest past performance score--equal to that of Bauer--since it met all the requirements of the RFP by demonstrating Chant's experience with similar test stands.[3]

We disagree. Agencies properly may take into consideration specific, albeit not expressly identified, experience in making qualitative distinctions between competing proposals, so long as the specific experience is logically encompassed by or related to the RFP's requirements and stated basis for evaluation; accordingly, it is not objectionable for an agency to rate a firm that has previously supplied the same type of item called for under the RFP higher than a firm with more general experience. See Counter Tech. Inc., B-260853, July 20, 1995, 95-2 CPD ¶ 39 at 4; Fidelity Techs. Corp., B-258944, Feb. 22, 1955, 95-1 CPD ¶ 112 at 2-3.

Here, while an offeror was not required to show that it had produced the same type of item to be acceptable under the RFP's past performance factor--it merely had to have produced similar items--this does not mean that an offeror with experience producing similar items had to be scored the same as an offeror that has produced the same type of item. Indeed, as noted above, the RFP was "for the express purpose of soliciting technical proposals and cost estimates for a nozzle test stand from an established contractor having experience in the design and manufacture of aircraft fuel components test stands." RFP § C, ¶ 1.1. While the record shows that Chant has experience in the design and manufacture of test stands, including a fuel component test stand, it does not show that Chant has the specific experience with aircraft fuel nozzle test stands that Bauer does. Accordingly, we think the agency reasonably concluded that Bauer's proposal, reflecting more relevant successful past performance producing the same type of test stand solicited by the RFP, should be rated higher in this regard than Chant's proposal, which reflects less relevant past performance.

Chant next contends that, because the evaluators assigned Chant the same high score as Bauer for MTBF under the reliability technical factor, the evaluators improperly assigned Chant the minimum score for life expectancy, which Chant claims is intertwined with its test stand's MTBF, justifying a higher score. Specifically, Chant asserts that section C, paragraph 3.3.3 of the RFP equates an MTBF of 500 hours to a life expectancy of 10 years, and argues that, since Chant specified an MTBF of 1,000 hours, the life expectancy of its test stand is at least 20 years--the same as Bauer's--and thus should have received the same high score as did Bauer for life expectancy.

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[3]Chant does not contest Bauer's past performance score. The agency notes that, even if Chant had received the maximum possible score for past performance, Chant still would not have received the highest overall weighted score.

In reviewing a protest challenging an agency's technical evaluation, we examine the record to ensure that the agency's evaluation was reasonable and consistent with the stated evaluation criteria. Stewart Title of Orange County, Inc., B-261164, Aug. 21, 1995, 95-2 CPD ¶ 75 at 3-4.

Contrary to Chant's assertion, section C, paragraph 3.3.3 of the RFP did not equate the required minimum MTBF of 500 hours to a life expectancy of 10 years. Rather, paragraph 3.3.3 separately specified the required minimum MTBF and the required minimum life expectancy for the test stand:

> 3.3.3 Reliability. The nozzle test stand shall be designed for a mean time between failures of at least 500 hours. The test stand shall be designed for a useful life of 10 years (approximately 2000 hours per year).

Indeed, information in Chant's own comments on the agency's administrative report responding to the protest indicates that MTBF and life expectancy, while correlated, are separate measures of reliability; this is consistent with the RFP treating MTBF and life expectancy as separate elements of the reliability factor, each requiring its own validation.[4]

In any event, Chant provided no basis in its proposal to support the assertion made in its protest that its test stand, which provides an MTBF double the minimum required, also provides--by implication--a life expectancy double the minimum 10 years required. As Chant itself concedes, it did not state a specific 20-year life for its test stand in its proposal. Rather, Chant's proposal stated that its test stand "will have a useful life of at least 10 years (2,000 hrs. per year)"; that "by using easily maintained or replaceable components, a design life of ten years will readily be achieved"; and that "[t]he ten year design life will readily be achieved providing that the equipment is properly maintained." Chant Technical Proposal at 4, Appendix - MTBF Determination. Accordingly, we think the agency's evaluators reasonably assigned Chant the minimum score for life expectancy.

Chant nonetheless argues that the evaluators should have concluded, based on the MTBF methodology it provided in its proposal, that the life expectancy of its test stand "is really open ended." Protest at 3. Chant maintains that the evaluators apparently understood neither its MTBF methodology (and the interrelationship of MTBF with life expectancy) nor reliability methodology in general. According to Chant, capable evaluators would have given Chant more than the minimum score for the life expectancy subfactor. However, Chant did not provide reliability validation documentation, as required by section C, paragraph 4.1.1.2 of the RFP,

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[4]The information presented by Chant in its comments is from the Department of Defense's Reliability Analysis Center.

that would support a claimed life expectancy of more than 10 years. Nor was there information or a methodology in the proposal from which the evaluators otherwise reasonably should have divined a life expectancy of more than the one Chant specifically offered.

Chant also argues in its comments, at 4, that because the life expectancy of a test stand is related to the level of maintenance performed on the stand, it is not possible to give a finite design life without extensive testing and "[s]tating a long life expectancy is meaningless." According to Chant, "[i]t is also known to be unreliable to use examples of previous products in the field since the MTBF and the life expectancy are totally dependent on the maintenance performed by the specific end user on the specific product." Id. In this regard, Chant states that the only way Bauer could have rated a higher score than Chant for life expectancy would be for the agency to have had a Bauer test stand on-site and to have tested the stand for more than 20 years to verify Bauer's claimed life expectancy.

We construe this aspect of Chant's protest, first raised in its comments, as essentially an untimely protest of the terms of the RFP. As described above, the RFP instructed offerors to specify the life expectancy of their proposed test stands and provided that test stand life expectancies longer than the minimum 10 years would receive higher scores. To evaluate the methodology used by offerors to determine the MTBF and life expectancy of their test stands, the RFP, at 39, stated that "[p]roven examples that can be validated shall receive a higher rating than theoretical studies." RFP § L, at 39. In this regard, section C, paragraph 4.1.1.2 of the RFP permitted offerors to validate their reliability claims "by citing comparability to similar systems presently in use," which the record shows was how Bauer supported its reliability claims. If Chant objected to these terms of the RFP, it should have protested them before the date for submission of proposals, as is required to timely protest an alleged solicitation impropriety. 4 C.F.R. § 21.2(a)(1) (1998).

The protest is denied.

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