mordJ1

DECISION THE COMPTROLLER GENERAL OF THE UNITED STATES 25509
WASHINGTON, D.C. 20548

FILE: B-209220 **DATE:** June 20, 1983

MATTER OF: Kaman Aerospace Corporation

DIGEST:

1. Award of a negotiated contract to higher rated, higher priced offeror is proper where that result is consistent with evaluation criteria stated in request for proposals and where procuring agency makes reasonable determination that difference in technical merit is sufficiently significant to justify the difference in price.

2. Whether an awardee's leader/follower plan will achieve the goal of the Leader/Follower Program is a matter of contract administration, which is the responsibility of the procuring agency and not GAO.

Kaman Aerospace Corporation (Kaman) protests the award of a contract to Bell Helicopter Textron, Inc. (Bell), pursuant to request for proposals (RFP) No. DAAK50-81-R-0028, issued by the Army Aviation Research and Development Command (Army), for the design, qualification and production of composite main rotor blades (CMRB) for the UH-1H helicopter. The "leader/follower" method is the approach the Army has selected for this procurement, which has three phases expected to be completed in the following years: engineering development (1982-1985); production - 6,000 blades (1985-1991); and operating and support (1986-2011). Related to these phases, the RFP stated that the Government would "independently estimate cost for accomplishing engineering development, system investment costs, and operating and support costs"--in other words a "life cycle" cost evaluation.

Under the leader/follower concept, the leader company is the actual developer of an item or system, while the follower company is an observer during the development stage. Upon completion of the development of the item, the leader will furnish manufacturing assistance and expertise to the follower which enables the follower to become a

025940
121695

source of supply for the item. See Defense Acquisition Regulation (DAR) §§ 4-701, -702, and -703 (1976 ed.).

We deny the protest.

It is Kaman's position that had the Army's evaluation followed the criteria set forth in the RFP, Kaman would have been awarded the contract. The issues presented by Kaman's protest are: (1) the Army failed to "discount to present value" offerors' proposed costs as required, allegedly, by the RFP; (2) the information submitted pursuant to RFP amendment 10 was not utilized to determine which offeror has the most realistic investment cost; (3) operating and support costs were not based on the RFP's stated aircraft attrition rate; (4) the technical evaluation contains several irregularities; and (5) the management area evaluation must be inadequate since full transfer of technology between leader and follower is not ensured in Bell's proposal. These issues will be grouped below where appropriate.

Cost Evaluation

Kaman contends that the RFP requires that the Army consider "discounted constant dollar cost streams" in determining offerors' life cycle costs. Kaman points out that in paragraph 4.1 of the RFP, attachment 7, offerors are advised that "operating and support cost estimates will be developed by the Government in accordance with Department of the Army Pamphlet 11-4." That pamphlet, entitled Operating and Support Cost Guide for Army Materiel Systems, dated April 1976, "provides a framework for the presentation, documentation, and reporting cost estimates of the operating and support phase of a materiel system's life cycle." Secondly, that pamphlet advises that the responsibility for development and review of the life cycle cost estimates is described in "Army Regulation 11-18." That regulation reads:

> "In formulating cost estimates for major materiel systems and in formulating unit cost estimates for input into Cost and Operational Effectiveness Analysis * * * priority will be given to the best estimate possible of absolute (nondiscounted) cost, both total and unit. These costs will be discounted unless specifically exempted by Headquarters DA."

Kaman argues that the review and analysis of life cycle cost must include cost discounting of proposals for major materiel systems to determine if the analysis changes the relative ranking of the proposals.

The quoted Army regulation does not expressly state that offerors' cost proposals are to be discounted. In any event, the Army states (and we cannot question) that offerors' cost proposals (in "escalated" dollars) were presented to the individual who selected Bell and that Kaman's cost proposal so evaluated merited a substantial cost savings over the Bell proposal (Kaman - $141.151 million dollars; Bell - $162.493 million dollars). In fact, the quantitative dollar advantage of the Kaman cost proposal exceeds the $18 million dollar advantage (in "constant year" dollars) which Kaman claims its proposal should have received had: (1) offerors' proposals been properly discounted; (2) offerors' responses to "Modification 10," concerning ceilings in offerors' production cost estimates, been properly evaluated; and (3) costs been adjusted for the proper "aircraft attrition rate" so that fuel costs would not be counted for "planes which are not flying."

Under the circumstances, therefore, we conclude that Kaman was not prejudiced in the award evaluation by the Army's cost analysis even if the Army improperly evaluated "Mod. 10" responses and the aircraft attrition rate. Moreover, given the Army's position on the technical advantage of Bell's offer (which we cannot question, as discussed below), it seems clear that the Army's ranking of offerors would not have changed even if discounting in "constant year dollars" had been expressly required under the RFP and had been employed here.

Technical Evaluation

The RFP provides that the major evaluation areas are (1) cost, (2) technical, and (3) management (leader and follower) with cost and technical being of equal value and each more important than management. Under technical, three elements were listed in their relative order of importance: technical approach, prototype development, and support effort. The latter two elements were not placed in issue by Kaman's protest. Pursuant to the technical approach, proposed blade design concept was evaluated in terms of the following (listed in descending order of priority): "(1) maintainability; (2) performance; (3) structures; (4) dynamics; (5) flying qualities; (6) producibility; (7) survivability and vulnerability; and (8) secondary system."

Kaman argues that there were a number of irregularities in the Army's technical evaluation. It is Kaman's position that a properly conducted technical evaluation would not support the conclusion that Bell's proposal--when compared to that of Kaman--was technically superior. As a matter of fact, Kaman submits that its technical proposal, when properly evaluated, would be rated only 2 percent below Bell's proposal. Therefore, in light of Kaman's lower cost, award should have been made to Kaman. In its voluminous submissions, Kaman does conduct what it believes to be a proper technical evaluation. Furthermore, Kaman takes issue with the Army's conclusion that Kaman's "skin manufacturing process" should be regarded as a weakness in the proposal.

We are not persuaded by Kaman's arguments.

In resolving cases where a protester, as here, challenges the validity of a technical evaluation, it is not the function of GAO to evaluate proposals in order to determine which should have been selected for award or to rescore the proposals. The determination of the relative merits of proposals is the responsibility of the procuring agency, since it must bear the burden of any difficulties incurred by reason of a defective evaluation. Consequently, we have held that procuring officials enjoy a reasonable degree of discretion in the evaluation of proposals and such discretion must not be disturbed unless shown to be arbitrary or in violation of procurement statutes and regulations. Therefore, our Office will not substitute its judgment for that of the procuring agency by making an independent determination. John M. Cockerham & Associates, Inc.; Decision Planning Corporation, B-193124, March 14, 1979, 79-1 CPD 180. In other words, we will not review what a protester believes would be a proper technical evaluation except in the context of determining whether an agency's evaluation was reasonable.

As noted above, cost and technical, two of the three major evaluation factors, were of equal value and both were important in making the award. Nonetheless, even under such procurement, lowest cost or highest technical score in and of itself is not necessarily the determining factor in making an award. An agency may properly, as here, select a higher rated technical proposal at higher cost if the agency reasonably determines that the technical merit is sufficiently significant to outweigh the additional cost. Columbia Research Corporation, 61 Comp. Gen. ____ (B-202762, January 5, 1982), 82-1 CPD 8; Riggins & Williamson Machine

Company, Inc., et al., 54 Comp. Gen. 783 (1975), 75-1 CPD 168. However, if a determination cannot be justified in light of the acceptable level of technical competence available at lower cost, the agency should award to a lower scored offeror. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD 325. Based on our review of the record, we cannot question the Army's determination that the technical merit in Bell's proposal was sufficiently significant (technical scores: 76.49 - Bell; 63.85 - Kaman) to justify Bell's higher cost.

Kaman submits that irregularities appear in four factors under the technical approach--maintainability, performance, structures, and producibility.

A. Maintainability

In regard to maintainability, Kaman argues that in light of its design, which, in its view, betters each of the maintainability requirements, Kaman should not have been scored the same as Bell; rather, the Source Selection Evaluation Board (SSEB) scoring should have reflected an advantage for the Kaman design. Kaman points to one factor in particular--the requirement to achieve "individual blade interchangeability," the time necessary for the "balancing and tracking" procedure after a blade is replaced. It is Kaman's position that the Bell design requires at least one and possibly more test flights to adjust a "trim tab" in order to achieve individual blade interchangeability. On the other hand, Kaman's design merely requires a "ground run-up and a rotor adjustment" to achieve the necessary tracking. Based on this, Kaman believes its design should have been rated higher than the Bell design.

While it is true that Kaman's design does not require a trim tab for blade tracking and this was noted as a strong point in Kaman's evaluation, the fact that Bell's design required a trim tab was not considered a weakness. We note, however, that the Army found that both proposals contained a weak point in regard to the "erosion strip" design. In addition, it was believed that there was a moderate risk for either proposal in meeting the design for maintainability objectives due to the possibility of frequent maintenance on the leading edge. As to the other criteria listed under the maintainability factor, the narratives for both proposals indicated a relative equality. The score given to both offerors was 7.1, which is described in the Standard for Scoring Sheet as "meets minimum requirements stated in RFP." We find that the narrative is consistent with the

evaluation criteria in the RFP and supports the Army's determination that under this factor the proposals are equal, and that the point scores were reasonably accurate reflections of the narrative.

B. Performance

Kaman's next complaint concerns the evaluation and resulting point scores under the performance factor. The RFP's performance requirements were that the UH-1H utility helicopters with the CMRB shall have certain capabilities when compared to the current UH-1H with metal blades, that is:

> "a. At 4000 ft. pressure altitude and 35°C:
>
> "(1) Hover out of ground effect at 3% greater (at 324 rpm) gross weight at Military (30 minute) power is required.
>
> "(2) In forward flight at 8000 lbs gross weight at 100 KTAS (knots true air speed) no increase in fuel flow is permitted and five percent (5%) decrease in fuel flow is desired.
>
> "b. At sea level standard day:
>
> "No increase in fuel flow is permitted in forward flight at 9500 lbs gross weight at 100 KTAS."

Kaman contends that there was no basis for the SSEB to have given the performance portion of Kaman's proposal a 3.2 score. The Standard for Scoring Sheet states that this score means the "potential design has undesirable but acceptable deviations." In support of this position, Kaman points to an April 16, 1982, letter from the contracting officer's technical representative which provided that the evaluation committee had deleted the noncompliance deviations against Kaman's hover and forward flight capabilities and only considered them to be a weakness. Kaman posits that the evaluation committee agreed that the Kaman design, with the exception of the hover capability, exceeded the RFP's minimum requirements. Kaman presents an elaborate analysis converting the performance requirements from percentages to absolute numbers, arguing that such is more rational. Under this analysis, Kaman states that Bell would still have an advantage over Kaman, but it would be no more than 5.4 percent. In addition, Kaman declares that it is

confident that it will meet the 3-percent improvement in hover capability.

The Army admits that the evaluation committee did not feel that Kaman was technically unacceptable and, therefore, outside of the competitive range. Nonetheless, the Army argues that there was a serious technical concern in regard to the hover capability and forward flight. The reason for the Army's decision to permit Kaman to submit additional information to demonstrate that its design could comply with the hover requirement was that the committee's view was based on analysis as opposed to validated test results. In other words, the Kaman design was skirting the edge of technical unacceptability and the Army gave Kaman the benefit of the doubt. The Army states that Kaman was notified that this problem was a serious weakness in the Kaman proposal.

A review of the evaluation committee's technical subfactor evaluation for performance and the technical narrative summary, both occurring after the April 16, 1982, letter, above, indicates that Kaman was unable to demonstrate to the committee that its design would meet all of the performance requirements. The committee found several weak points in the Kaman proposal. One was that the increases in gross weight at 4,000 feet/35° C. at military power were established at significantly less than the required 3 percent. Another was that the forward flight performance at sea level operation would be degraded at velocities above 70 KTAS at high gross weights. Consequently, the Kaman proposal failed to satisfy the requirement of not degrading forward flight performance.

The Bell proposal, on the other hand, was found to exceed the performance requirements. The evaluation committee found that increase in gross weight at 4,000 feet/35° C. at military power was estimated to be over the 3-percent requirement. Another strong point for the Bell proposal was that there was no degrading in forward flight performance; rather, the committee found that there was improved forward flight performance at all flight conditions.

In this circumstance, we find that the narratives were consistent with the RFP's evaluation criteria and support the point scores given to the offerors. Furthermore, it is our view that the narratives support the Army's determination that Bell's proposal is clearly superior to Kaman's

proposal in performance regardless of the confidence Kaman has expressed in its proposal. Based on the foregoing, we need not discuss the issue concerning the sufficiency of Kaman's promise to correct performance deficiencies under the RFP's Correction of Defects clause.

C. Structures

In regards to the structures evaluation factor, Kaman once again is arguing that the Kaman design should have been rated higher than the Bell design. Kaman submits that the "tip weight retention" of its design is superior since it, unlike Bell design, provides for an indication of "fail-safe operation." Also, Kaman states that the fatigue life of its blade is 17,000 hours, which far exceeds the 5,000-hour requirement established by the RFP.

Under this evaluation factor, the Army found Bell's proposal to be slightly better than Kaman's proposal. The difference between the proposal is found in the analysis of fatigue life and Kaman, while stating that its blade had a 17,000-hour fatigue life, was only committed to the 5,000-hour fatigue life requirement. It is our view that even without the fatigue life factor, which was emphasized by Kaman, the evaluation committee's narratives support the conclusion that both offerors are virtually equal in this area. Interestingly, even with fatigue life included, the evaluation committee's comparative analysis found that both offerors are virtually equal in this area. We find that the point scores are adequately supported by the narrative evaluation reports and that the reports evaluated those areas set forth in the RFP.

D. Producibility

Kaman's final argument concerning technical approach is directed to the producibility subfactor. Kaman does not understand why the Army was of the opinion that Kaman's blade "skin" manufacturing process should be designated as a weakness.

Initially, we note that both offerors were determined to be equal. In regard to Kaman's skin manufacturing process, the Army was especially concerned with the "proposed method of winding the skins dry and post-impregnating with resin." Also, we are aware that the Army was concerned about the substitution of "Kevlar" for the glass material presently being used by Kaman. Kaman and the follower

company (Hercules Aerospace Division) are both confident that the substitution will not affect the success of the "wetting process." However, it is the Army's position that this process could cause blade skin problems. Nonetheless, the Army finds that the producibility risk for both offerors is low. The Army had one other concern with respect to Kaman's design--the blade erosion strip material. Kaman proposed an erosion strip material that the Army finds will not meet the "leading edge erosion protection" requirement. However, since the Kaman design incorporates a stainless steel backup sheath, no structural damage to the blade will result. While this is so, the fact remains that Kaman's material does not meet a stated requirement.

A review of the narrative evaluation reports evidences that in this area, as in the other technical areas mentioned above, the narrative evaluation reports follow the RFP's stated criteria and adequately reflect the point scores given to each offeror.

Management Evaluation

Finally, Kaman questions the Army's evaluation of the "Leader-Follower" portion of the Management evaluation factor. Kaman submits that the principal intent of the RFP utilizing the leader/follower procedure is to obtain and retain competition in the production phase. It is Kaman's position that its plan will accomplish a transfer of technology between Kaman and Hercules in the full-scale engineering development and qualification of the design. Kaman argues that it has reviewed Bell's plan and concludes that it contains deficiencies which will not permit full transfer of technology to develop a fully competitive second source.

We have reviewed the Army's evaluation of Bell's follower subcontract plan, and we cannot question that evaluation. As a matter of fact, our review of Kaman's plan reached the same conclusion. Both plans, although presented somewhat differently, appear to permit a full transfer of technology which should allow each follower company to be a fully competitive second source. The Army's management area evaluation concludes that both Kaman and Bell are acceptable and each has a full and complete understanding of the leader/follower program. Nonetheless, whether Bell's plan will achieve the goals of the leader/follower program is a matter of contract administration and, as such, is not an issue to be decided by our Office under our Bid Protest Procedures.

Based on the foregoing, we do not find that the Army's evaluation of these proposals was arbitrary or in violation of procurement statutes and regulations. Therefore, we will not substitute our judgment for that of the Army.

It is clear that by selecting Bell for this contract, the Army made a cost/technical (including management) tradeoff. The question for our Office is whether the determination to award to Bell, given its higher cost, higher rated proposal, is reasonable in light of the RFP's evaluation scheme. See Columbia Research Corporation, supra. Here, even though cost and technical were of equal value, the RFP also included a management factor and provided that award would be made to that offeror providing a proposal that will be most advantageous to the Government, price and other factors considered. Based on our review of the record, which reflects approximately a 20-percent technical advantage for Bell and an $18 million dollar advantage (in "constant year" dollars) for Kaman, we cannot question the Army's determination that the technical difference between the Bell and Kaman proposals was sufficiently significant to justify an award to Bell at a higher cost.

Kaman's protest is denied.

for Milton J. Socolar
Comptroller General
of the United States