



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Tracor Marine, Inc.

File: B-226995

Date:

July 27, 1987

DIGEST

1. Unsuccessful offeror's protest based on ground that it should have been selected for award of cost type contract because its proposal was essentially equal technically and proposed the lowest cost is denied, since the agency reasonably determined that, notwithstanding the small difference in point scores, the awardee's proposal (providing better management of emergency situations) was technically superior and more advantageous to the government.

2. Protest that contracting agency failed to disclose a critical evaluation factor--ability to respond to emergency situations--and to conduct meaningful discussions is denied where the record shows that such proficiency is reasonably encompassed in the stated evaluation factors, that the protester should have been aware of the importance of promptly responding to emergencies, and that the agency raised the issue in written discussions with the protester.

DECISION

Tracor Marine, Inc. protests the award of a cost-plus-fixed-fee contract to SEACO, Inc. under request for proposals (RFP) No. N66001-86-R-0372, issued by the Department of the Navy for services (crew, scuba-diving and design engineering) to operate and maintain the SSP Kaimalino for a base year and 2 option years. The SSP Kaimalino is a Pacific Missile Test Range support vessel designed for operation as a stable semisubmerged platform. The Navy awarded the contract to SEACO after deciding that SEACO's higher technically rated offer provided the greatest value to the government notwithstanding its higher proposed cost.

Tracor advances four bases of protest: (1) the Navy should have awarded the contract to Tracor because Tracor's technical proposal was essentially equal to SEACO's and Tracor offered the lower proposed cost; (2) the Navy failed

to disclose a critical evaluation factor; (3) the Navy did not conduct meaningful discussions with Tracor; and (4) the Navy, in evaluating proposals improperly changed the weight of the four disclosed evaluation factors. We deny the protest.

BACKGROUND

Berthed in Hawaii, the SSP Kaimalino serves as an at-sea launching and testing platform for oceanographic and military programs. The Navy reports that in addition to sailing the vessel, the contractor often has to perform deck equipment changes and reconfiguration on tight schedules to adapt the vessel to different operational tasks. The Navy further advises that the SSP Kaimalino's unique capabilities in rough water have given her a special role in military operations (torpedo deep water proofing tests, recovery and testing of military equipment, and attack class submarine maneuvers) and that any loss of her support could result in identifiable degradation of the Navy's combat readiness.

EVALUATION

The RFP provided for award:

"to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, cost or price and other factors, specified elsewhere in this solicitation considered."

The RFP evaluation criteria were, in descending order of importance: (1) Technical Management; (2) Personnel Qualifications/Availability; (3) Cost; and (4) Corporate Experience. The Navy advises that it emphasized technical management capabilities above all other factors including cost in the evaluation plan because of the SSP Kaimalino's importance to fleet readiness.

The RFP required technical proposals that were specific, detailed and complete enough to show that the prospective offeror thoroughly understood the requirements and any technical problems inherent in the work, and could provide a valid and practical solution for each contemplated problem.

Only SEACO (the incumbent contractor) and Tracor submitted proposals, and both were found technically acceptable and included in the competitive range. Discussions were held with both offerors, and the Navy requested the submission of best and final offers (BAFO's). After evaluation of the BAFO's, SEACO's normalized score was about four points more than Tracor's. The scoring was based on a weighted

technical factor (the three non-cost factors) of 80 percent and a weighted cost factor of 20 percent (the lowest proposed cost received a normalized maximum score of 20). The BAFO's were rated as follows:

<u>Firm</u>	<u>Tech Score</u>	<u>BAFO Cost</u>	<u>Cost Score</u>	<u>Total Norm Score</u>
Tracor	72	\$1,380,451.30	20	92
SEACO	79.6	\$1,656,264.00	16.7	96.3

The difference in technical scores primarily resulted from downgrading Tracor because Tracor's chain of command vested important decision making authority in a Florida-based project manager. The Navy was concerned by both the project manager's geographic distance from Hawaii and the fact that the five time zones between Florida and Hawaii would make it difficult to contact a Tracor official authorized to bind the corporation both before and after regular business hours (in Florida) and on weekends. The concern grew out of the difficulties, resulting from distance and time differential the Navy experienced when it tried to support the SSP Kaimalino from its facilities in San Diego, California.

PROTEST

Tracor contends that its technical proposal is essentially equal to SEACO's technical proposal because its technical proposal was scored only a few points less than SEACO's. The Navy takes the position that while the point spread between the two proposals is small, the significance of the difference is large, since Tracor's lack of necessary local decision making authority makes it questionable whether Tracor could provide the control necessary to handle emergency situations.

We have recognized that in a negotiated procurement a difference in point scores does not itself indicate the superiority of a proposal, as the contracting agency has broad discretion in making cost/technical tradeoffs, the extent of which is governed only by the tests of rationality and consistency with the established evaluation criteria. See Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 C.P.D. ¶ 325. We have upheld awards to higher technically rated offerors with significantly higher proposed costs where the contracting agency reasonably determined that the cost premium involved was justified considering the significant technical superiority of the selected offeror's proposal. Riggins & Williamson Machine Co., Inc., et al., 54 Comp. Gen. 783 (1975), 75-1 C.P.D. ¶ 168. The determining element is not the difference in technical

merit, per se, but the reasonableness of the contracting agency's judgment concerning the significance of that difference. TEK, J.V. Morrison-Knudsen/Harnischfeger, B-221320, et al., Apr. 15, 1986, 86-1 C.P.D. ¶ 365.

We find the Navy position reasonable. The RFP was clear that the government was very concerned about any potential critical management and scheduling problems; the RFP broadly defines emergency situations as those involving either the safety of the vessel or actions necessary for the successful completion of an operation. Thus, it appears that reconfiguring the deck equipment for an upcoming operation could constitute an emergency situation as much as fire, flooding, collision, etc. Moreover, we think that even in a nonemergency situation concern about the apparent lack of a readily accessible individual vested with decision making authority is reasonable since we understand that regular business hours in Hawaii and Florida only overlap for 5 hours during each work day (between 7 a.m. and 12 noon in Hawaii, and between 12 noon and 5 p.m. in Florida). Obviously, if a situation arises at 1 p.m. Hawaiian time, requiring a contractor decision in Hawaii, the Navy does not want to wait until the next day for contractor action just because it is 1 hour after close of business in Florida. We note that SEACO's proposal specifically addressed SEACO's ability to respond promptly to various emergency situations. Consequently, we cannot conclude on this record that the two proposals are essentially equal.

Tracor's contentions about the failure to disclose a critical evaluation factor, and the failure to conduct meaningful discussions, are equally without merit. Tracor contends that neither the statement of work, the evaluation criteria, nor the discussions alerted it to the importance the Navy placed on the contractor's ability to handle emergency situations.

In our view, the record does not support Tracor's position. The RFP clearly states that the contractor is expected to keep the vessel in operational readiness and able to support around-the-clock operations. Moreover, the need to be prepared for emergencies is mentioned throughout the RFP. For example, clause C.100.4.1.1 requires the Craftmaster to ensure that his crew is properly cross trained for emergencies; clause C.100.4.1.2 requires the Chief Engineer to be knowledgeable in the conduct of emergency drills; and clause C.100.4.1.18 states that when the vessel is deployed the marine draftsman shall act as technical liaison for any emergency-type item the vessel might require to complete the assigned mission. In any event, we read the RFP technical management factor as fairly including the concept of management response time to significant occurrences whether

or not they are emergencies. We think it significant that Tracor elected in its proposal to limit the authority of its personnel in Hawaii during emergency situations by stating:

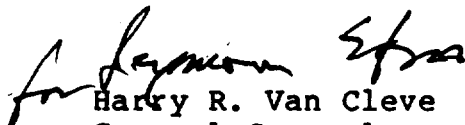
"The Craftmaster [Hawaii] will maintain close contact with the Manager of Marine Operations [Florida], keep him advised of the status of the [vessel] and immediately advise him of the need for any urgent or emergency repair. The Manager of Marine Operations will coordinate such repairs with [the Navy in Hawaii]."

Moreover, we find that the Navy met its obligation to be as specific as practical considerations permit in advising Tracor of the deficiencies in its proposal, see Tracor Marine, Inc., B-207285, June 6, 1983, 83-1 C.P.D. ¶ 604, when it sent the BAFO letter to Tracor advising:

"Isn't clear whether you plan to establish a facility in Hawaii; or will all work be coordinated from Florida (Emergency efforts may be a problem)."

Finally, Tracor initially alleged that the Navy altered the weight assigned to proposed cost during the course of the evaluation; however, the Navy report claims that Tracor simply is wrong. Since the record does not support the allegation, and Tracor does not rebut the Navy's position on the issue, we consider the issue to have been resolved to Tracor's satisfaction or to have been abandoned by Tracor, and we will not consider it further. See Military Base Management, Inc., B-224128, Nov. 26, 1986, 86-2 C.P.D. ¶ 616.

The protest is denied.


Harry R. Van Cleve
General Counsel