



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Randtron Systems

File: B-237354

Date: February 14, 1990

John G. Stafford, Esq., McKenna, Conner & Cuneo, for the protester.

Gregory H. Petkoff, Esq., Office of the General Counsel, Department of the Air Force, for the agency.

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DIGEST

1. Agency reasonably found that an offeror did not demonstrate an understanding of agency requirements where offeror was determined to have provided insufficient manhour effort and time to accomplish the development, design, fabrication, and testing of military antenna assemblies.
2. Discussions are meaningful where agency imparted sufficient information to protester to afford it a fair and reasonable opportunity in the context of the procurement to identify and correct deficiencies in its proposal.

DECISION

Randtron Systems protests the rejection of its proposal as technically unacceptable under request for proposals (RFP) No. F33615-89-R-1014, issued by the Department of the Air Force, Aeronautical Systems Division, Wright-Patterson Air Force Base, Ohio, for the design, fabrication, testing, and delivery of four Advanced Threat Warning Antenna assemblies.^{1/} Randtron contends that the rejection of its

^{1/} The antennas are components of an aircraft system that detects enemy radar scanning of the aircraft and warns the pilot of the significance of the radar scan.

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proposal was improper because the Air Force failed to follow the stated evaluation criteria and failed to conduct meaningful discussions.

We deny the protest.

The RFP, issued on March 28, 1989, contemplated the award of a cost-plus-fixed-fee contract for a three phase research and development effort involving design (Phase I), fabrication and testing (Phase II), and demonstrations (Phase III) of four distinct antenna assemblies. The RFP listed the following award criteria in descending order of importance: (1) technical acceptability; (2) reasonableness, realism, and completeness of the proposed cost; and (3) management capabilities. The technical acceptability criterion included, in descending order of importance, an evaluation of soundness of approach, special technical factors, understanding the problem, and compliance with requirements. Award was to be made to the best overall offer, based on technical merit, cost and other pertinent factors.

Several proposals were received in response to the RFP. The initial technical evaluation resulted in an overall rating of marginal for Randtron. Randtron's proposal was rated marginal based upon a weakness in the area of understanding the problem which indicated to the Air Force that there was a low probability of Randtron satisfying the government's requirements. Specifically, the Air Force determined that Randtron proposed inadequate hours for the fabricating and testing of four advanced threat warning antenna assemblies, given the complexity of the items. Randtron was, however, retained in the competitive range.

The Air Force then conducted both oral and written discussions with all offerors in the competitive range. On two separate occasions, during oral discussions, Randtron was advised by the agency that its significantly low proposed labor hours were inadequate. After reviewing Randtron's explanation for its low labor hours, the Air Force, in its request for best and final offers (BAFOs), again reminded Randtron that the clarification of program labor hours was not resolved during discussions.

BAFOs were received from all offerors and evaluated. Randtron, in its BAFO, restated its labor hours as initially proposed. As a result, Randtron's proposal rating was downgraded to unacceptable, and Randtron was so notified. This protest followed. No award has been made.

Randtron contends that the rejection of its proposal was improper since the Air Force unreasonably downgraded

Randtron's proposal because Randtron's labor hour commitment was less than that estimated by the Air Force, and since the Air Force failed to follow its own evaluation scheme. Specifically, Randtron contends that its proposal and BAFO clearly explained that prior company research and development would allow Randtron to begin the antenna development program at a baseline that could be far ahead of any other competitor. Randtron maintains that it specifically identified the bases for its lower labor hour projections in its proposal and during discussions. Randtron states that it reiterated those bases in its BAFO and believes that the evaluators' failure to consider the unique circumstances which contributed to the lower labor hour proposal was unreasonable. Further, Randtron argues that the evaluators failed to appreciate that Randtron had an existing working model that nearly met the Air Force's specification in one area, and which permitted Randtron to estimate limited labor effort for the work.

The determination of the technical acceptability of proposals is the responsibility of the contracting agency in the exercise of its discretion. Since it is the contracting agency that must bear the burden of any difficulties incurred because of a defective evaluation, it is our position not to question that determination unless the protester demonstrates that it was clearly unreasonable.

ESC Corp., B-232037, Nov. 23, 1988, 88-2 CPD ¶ 507.

Here, the Air Force evaluators concluded that the Randtron's proposed level of effort indicated a severe lack of understanding of the problems associated with fabricating and testing advanced aircraft antennas. We note that the RFP's Statement of Work under the Fabrication and Testing phase required that an "iterative fabrication and testing process" (described by the Air Force as representing a successive "build and test" philosophy) be used for developing the antennas. According to the Air Force, this process greatly reduces program risk and significantly increases the probability of success. The Air Force determined that Randtron's proposed program did not support this design process/philosophy.

In this regard, Randtron proposed an accelerated program schedule of 20 months (8 months less than estimated in the RFP). Of the 20 month total, approximately 4 months were identified for accomplishing Phase II, which the Air Force considered a critical phase. The Air Force reports that while it is likely one iteration of each antenna type could be fabricated and tested within that time frame, it was unlikely that any subsequent design iteration could be fabricated and tested in the remaining Phase II time limit.

Thus, the Air Force maintains that the level of manhour effort proposed by Randtron to perform Phase II (which was significantly below the government's estimated effort) was likely to be sufficient for only one fabrication and testing iteration. The Air Force evaluators believed that Randtron's severe shortage of proposed time and manhours presented a risk that Randtron would not successfully complete the program.

Contrary to the protester's assertions, the record shows that the Air Force did take into consideration Randtron's explanation for its low labor hours but did not find the evidence convincing that Randtron's proposed level of effort was adequate for the requirements of the program. Moreover, the Air Force determined that Randtron's existing product did not meet several of the requirements and would still require extensive development efforts. Consequently, the Air Force concluded that Randtron's proposed level of effort failed to meet the minimum requirements of the program. We find nothing improper in the Air Force evaluation here. We think that determining whether a proposal sufficiently indicates a firm's understanding of the requirements (here, the RFP's iterative fabrication and testing process) involves the exercise of technical judgment by the agency which is vested with discretion in making such judgments. Here, the agency's technical determination of Randtron's unacceptability necessarily involved its judgment that Randtron's existing working model needed extensive development effort which did not justify essentially waiving the iterative effort for Randtron for fabrication and testing in Phase II. Thus, the Air Force, in its technical determination, attributed less technical importance to Randtron's existing model than Randtron which severely curtailed its development efforts in reliance on its existing model. The protester has not shown that the agency's judgment concerning the effect of Randtron's unproven model was unreasonable.

Randtron also argues that the Air Force, during its evaluation, improperly downgraded Randtron's entire proposal to unacceptable based on the unacceptable rating given Randtron under the subcriterion, "understanding the problem," which ranks third out of four in relative importance under the criterion, technical acceptability. The protester alleges that the Air Force placed a much greater weight on this subcriterion than was disclosed in the RFP. Further, Randtron argues that the "understanding the problem" subcriterion never identified any minimum hour requirement.

We are not persuaded that the subcriterion, "understanding the problem," was given greater weight by the Air Force than as stated in the RFP. The solicitation provided that award of the contract would be made to the offeror submitting the best overall proposal on the basis of three major factors listed in descending order of importance: technical acceptability, reasonableness, realism, and completeness of cost; and management capabilities. Randtron received an unacceptable rating on a subcriterion of the most important evaluation factor, technical acceptability. We believe that an unacceptable rating on one of only four subcriteria of the most important evaluation factor, together with the fact that the Air Force considered Randtron's proposed level of effort to create a high risk that Randtron would be unable to successfully complete the program, justified an overall unacceptable technical rating. Further, although the "understanding the problem" area did not state any minimum hour requirements, the RFP specifically required offers to demonstrate their understanding of the problems involved with the design, fabrication and testing of advanced threat warning antenna assemblies.

Randtron also claims that the discussions were not meaningful, primarily because the Air Force did not specify that the perceived deficiency was in Randtron's proposed Phase II labor hour commitment for iterative fabrication and testing.

We have consistently stated that in order for discussions on a negotiated procurement to be meaningful, contracting agencies must furnish information to all offerors in the competitive range as to the areas in their proposals which are believed to be deficient so that offerors may have an opportunity to revise their proposals to fully satisfy the government's requirements. Pan Am World Servs., Inc. et al., B-231840 et al., Nov. 7, 1988, 88-2 CPD ¶ 446. However, the content and extent of discussions is a matter of the contracting officer's judgment based on the particular facts of the procurement. Huff & Huff Serv. Corp., B-235419, July 17, 1989, 89-2 CPD ¶ 55. There is not a requirement that agencies conduct all-encompassing discussions; rather, agencies are only required to reasonably lead offerors into those areas of their proposals needing amplification, given the context of the procurement. Eagan, McAllister Assocs., Inc., B-231983, Oct. 28, 1988, 88-2 CPD ¶ 405.

Here, the Air Force on three separate occasions advised Randtron that its overall proposed labor hours were considered inadequate. Randtron was also asked to clarify its engineering labor hours by categories. In response, Randtron, in a letter to the Air Force, went to great

lengths to explain the rationale behind its low proposed labor costs, that is, Randtron's existing antenna design. While we recognize that the Air Force did not specifically state that Randtron's proposed level of effort for Phase II was inadequate, we believe that the Air Force identified Randtron's deficiency as being inadequate labor hours. Moreover, it is clear from Randtron's explanation that Randtron understood the deficiency, but chose not to change its labor hours, and rather made a business decision to rely on its explanation instead.

Finally, Randtron contends that its cost proposal was much lower than any proposals remaining in the competitive range and that the Air Force cannot justify an award to a higher priced and purportedly higher technically scored offeror. While the protester seems to believe its low proposed cost should have warranted further consideration of its proposal, the solicitation made it clear that technical merit was the critical evaluation factor; and where a proposal is judged technically unacceptable, an agency is not obligated to consider a lower proposed cost. See GLH, Inc., B-232156, Nov. 18, 1988, 88-2 CPD ¶ 490.

The protest is denied.

James F. Hinchman
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General Counsel