



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Will-Burt Company

File: B-250626.2

Date: January 25, 1993

Harry E. Featherstone for the protester.
Alan M. Lestz, Esq., Witte, Lestz & Hogan, for Tri-Ex Tower Corp., an interested party.
William R. Medsger, Esq., and Thomas D. Carroll, Esq., Department of the Army, for the agency.
Paul E. Jordan, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Proposal was properly excluded from the competitive range where the agency appropriately concluded that the protester had no reasonable chance for award because of several deficiencies in its technical proposal, the correction of which would have required major revisions to the proposed design.

DECISION

The Will-Burt Company protests the proposed award of a contract to Tri-Ex Tower Corp. under request for proposals (RFP) No. DAAB07-92-R-F519, issued by the Army Materiel Command. Will-Burt alleges that its proposal was improperly eliminated from the competitive range.

We deny the protest.

The RFP, issued as a small business set-aside, contemplated the award of a firm, fixed-price contract for delivery of up to 31,500 10-meter Quick Erect Antenna Masts (QEAMs). The agency's objective is to acquire a standard, highly mobile, and quickly erectable/retractable, manportable mast unit which will be used with specified antennas. The QEAM will be deployed in ground, vehicular, and shelter mounted configurations by the military in uses involving extreme environments and rugged terrain.

Section M of the RFP stated that award would be based upon the "best value" to the government with consideration of three factors: technical, performance risk, and price. Overall, the technical factor was slightly more important

than performance risk and price combined. Risk and price were equal in importance. To be considered for award, a proposal had to be rated at least "acceptable" for the technical factor.

Eleven proposals were received in response to the RFP. An evaluation team evaluated the initial proposals and demonstrations of the offerors' QEAMs. The team sent items for negotiation (IFNs) to all competitive range offerors, including Will-Burt. Based upon its evaluation of the offerors' responses to the IFNs, the team narrowed the competitive range to three proposals, excluding Will-Burt's. Will-Burt's proposal was evaluated as presenting several deficiencies concerning maximum weight, maximum cranking force, retractability for transport, and fail-safe control during erection/retraction.

According to the evaluators, correction of these critical requirements would require a major redesign of the proposed mast. These deficiencies resulted in an "unacceptable" rating under the technical factor. In addition, Will-Burt's proposal received a "high" performance risk rating due to Will-Burt's limited past performance experience. Consequently, Will-Burt's proposal was eliminated from the competitive range and Will-Burt was not asked to submit a best and final offer (BAFO). Tri-Ex submitted the lowest priced BAFO and was proposed for award. When Will-Burt was notified that its proposal was eliminated from the competitive range, it filed this protest.

Will-Burt challenges the elimination of its proposal, contending that it meets all technical requirements of the specifications. It also argues that it should have received a "low" rating for the performance risk factor, and that its proposal represented the best value to the government. We find the protester's position without merit.

The evaluation of technical proposals and the resulting determination as to whether an offer is in the competitive range is a matter within the discretion of the contracting agency, since that agency is responsible for defining its needs and the best method of accommodating them. Thus, our Office will not make an independent determination of the merits of a technical proposal; rather, we will examine the agency's evaluation to ensure that it was reasonable and consistent with stated evaluation criteria and applicable statutes and regulations. Information Sys. & Networks Corp., 69 Comp. Gen. 284 (1990), 90-1 CPD ¶ 203; DBA Sys., Inc., B-241048, Jan. 15, 1991, 91-1 CPD ¶ 36.

Paragraph 3.2.2.5 of the specifications, "Mast Unit Weight," provides that the maximum overall weight of the unit including all accessories cannot exceed 100 pounds. It

further provides that: "The mast assembly or any other component/assembly shall weigh no more than 42 pounds and shall require no more than one person to carry" "Mast assembly" is not defined in the RFP, but is listed as a component of the "mast unit," which also includes "ancillary equipment" for deploying, operating, supporting, and retrieving the mast (e.g., anchors, guys, etc.), "mast/antenna adapter," and "transport case/bag" for carrying the mast assembly and ancillary equipment.

The evaluators found that Will-Burt's proposal did not comply with the 42-pound requirement because the protester's mast assembly, as proposed, weighed 58.4 pounds and, as measured at the demonstration, weighed 61 pounds. When this deficiency was identified in an IFN, Will-Burt replied that the center post and mast tubes were separately bagged for transport and each bag weighed less than 42 pounds, such that its QEAM satisfied the individual component weight requirement.

Will-Burt contends that its mast assembly is made up of 11 mast tubes, weighing less than 40 pounds. The remainder of its mast unit includes a separate center post assembly for erecting/retrieving the tubes, weighing 17.40 pounds, and other equipment including the winch handle, base plate, and guy ropes, weighing 30 pounds. Since the unit's combined weight is less than 100 pounds, and the tubes and center post each weigh less than 42 pounds, Will-Burt's position is that it is improper to find its proposal deficient by evaluating the center post as part of the "mast assembly." We disagree.

From our review of the proposal, we find that the evaluators reasonably concluded that the center post is an integral part of Will-Burt's mast assembly. The mast tubes are assembled and erected through use of the center post and the assembled mast tubes rest at the top of the post. Visually, the tubes and post create a continuous mast from the ground up. Will-Burt merely divided the mast assembly between two bags: one with nine tubes and the other with two tubes, including the top tube, and the center post. Although each loaded carrying bag weighs less than 42 pounds, the protester cannot properly circumvent the weight limit by simply dividing the mast components into two bags.

Will-Burt points out that it successfully demonstrated the human transportability of its mast as divided into two bags. However, the agency advises that the applicability of the weight specification is not limited to transport considerations. In addition to field deployment, some vehicle mount configurations require the mast to be mounted on shelters attached to the vehicles. According to the agency, the user payload restriction for the Standard

Integrated Command Post System shelter is 42 pounds; hence, a mast assembly such as Will-Burt's, which exceeds the 42-pound limit by more than 15 pounds, is clearly unacceptable.¹

Paragraph 3.2.2.2 of the RFP requires that the mast be manually erectable/retractable by a "MIL-STD-1472 [Military Standard] 5th percentile female crew of one." Will-Burt's mast is erected/retracted by use of a winch. The military standard provides force values for each arm in various movements and degrees of elbow flexion for fifth percentile males. According to the Standard, female values are calculated at two-thirds the male value. The agency calculated that, as defined by the referenced military standard, 28 pounds was the realistic maximum force permitted under the RFP to operate the winch.

The evaluators issued an IFN requesting clarification of Will-Burt's cranking force, in response to which the protester identified the value as 32 ft/lbs. Since this value was expressed in terms of torque, not force, a second IFN was issued. In response, Will-Burt advised that it took a force of 34.91 pounds. In its protest and original comments to the agency report, Will-Burt argued that the agency's calculation of the 28-pound requirement was erroneous and that a fifth percentile female operator using both hands can generate a force of 38.7 pounds. On this basis, Will-Burt concluded that its 34.91 pounds of force was compliant. Subsequently, Will-Burt reviewed its force calculations and agreed in later comments to our Office that the 28-pound figure used by the agency was correct. In conjunction with these comments, Will-Burt enclosed post-protest test results which it asserts reflect compliance with the 28-pound requirement.

While this information purports to establish compliance, it was not submitted during the evaluation despite two IFNs addressing the subject. An offeror is responsible for affirmatively demonstrating the merits of its proposal and risks the rejection of its proposal if it fails to do so. See DBA Sys., Inc., supra, citing Vista Videocassette Servs., Inc., B-230699, July 15, 1988, 88-2 CPD ¶ 55. Based

¹Will-Burt argues that the RFP did not include a specification concerning maximum weights for purposes of shelter mounting. However, the relevant consideration is that the specification clearly limits the weight of the mast assembly to 42 pounds, irrespective of whether the solicitation identified every specific reason for the limit.

upon the information in the proposal and negotiation responses, the agency reasonably determined that the mast was noncompliant with this specification and that compliance would require redesign of the item.

Will-Burt also challenges the agency's evaluation that its proposal represents a high performance risk. According to the agency, Will-Burt's proposal lacked verifiable detail of any recent, relevant past performance. While it provided details of one contract of approximately \$1 million and mentioned experience with masts of 72 feet and 42 feet, no verifiable detail was given to support the statements (e.g., contract numbers, dollar values, etc.). In response to an IFN, Will-Burt advised that it had "hundreds" of government contracts. At its debriefing, Will-Burt conceded that it had not provided details, based on its assumption that its performance record was well known in the industry. Again, an offeror is responsible for ensuring the completeness of its proposal. DBA Sys., Inc., supra. No matter how competent a contractor may be, a technical evaluation must be based upon information in, or submitted with, the proposal. Southeastern Center for Elec. Eng'g Educ., B-230692, July 6, 1988, 88-2 CPD ¶ 13. Since Will-Burt failed to provide necessary information concerning its past performance, we have no basis to disagree with the agency's evaluation that the proposal posed a high performance risk.


Based upon our review of the record, we agree with the agency's evaluation that Will-Burt's proposal, as modified in discussions, required major revisions to its design, and thus was technically unacceptable.² Since Will-Burt's technically unacceptable proposal did not have any reasonable chance of being selected for award, the agency

²We have also reviewed the record concerning the other deficiencies identified by the evaluators and find the evaluation reasonable. For example, the specifications required "fail-safe" features to ensure positive control of the mast with antenna and cable attached at any stage of erection/retraction. Will-Burt admits that if its proposed winch handle is released while cranking the mast up or down, the mast will lower one section (40 inches). Since Will-Burt's mast is not positively controlled at all stages, we find the agency reasonably concluded that the mast did not meet this specification. With regard to vehicle and shelter mount configurations, the specifications require that the mast be retractable and secured in its mounting bracket for transport. While Will-Burt proposed to leave the center post mounted, the remainder of the mast must be dismantled and packaged for transport. We find the agency reasonably concluded that this solution did not meet the specification.

properly eliminated the proposal from the competitive range.
See W.N. Hunter & Assocs.; Cajal Defense Support Co.,
B-237259; B-237259.2, Jan. 12, 1990, 90-1 CPD ¶ 52.

Will-Burt's assertion that its proposal constitutes the best value from a price standpoint is irrelevant. A technically unacceptable proposal cannot be considered for award regardless of the potential cost savings to the government.
Intraspace Corp., B-237853, Mar. 23, 1990, 90-1 CPD ¶ 327.

The protest is denied.


for James F. Hinchman
General Counsel