

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

Decision

Matter of: Choctaw Manufacturing Co., Inc.
File: B-252199
Date: May 24, 1993

Malcolm Utsey for the protester.
Michael J. McGonigle, Esq., Defense Logistics Agency, for
the agency.
Katherine I. Riback, Esq., and Paul Lieberman, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Agency properly evaluated proposal by offeror which had not previously produced the exact item being procured as acceptable with respect to experience where the evaluation was reasonable and consistent with the evaluation criteria which indicated that production of similar items would be considered under the experience factor.

DECISION

Choctaw Manufacturing Company, Inc. protests the award of a contract by the Defense Logistics Agency (DLA), Defense Personnel Support Center (DPSC), to J.H. Rutter-Rex Manufacturing Company, Inc. under request for proposals (RFP) No. DLA100-92-R-0167, for a quantity of men's white polyester trousers. Choctaw asserts that because Rutter-Rex has not previously manufactured this item, the agency improperly evaluated Rutter-Rex's proposal as acceptable with respect to the company's experience/past performance.

We deny the protest.

The RFP, issued on April 19, 1992, contemplated the award of a firm, fixed-price contract. Offerors were instructed to submit a product demonstration model (PDM) as part of their proposals, and informed that failure of the PDM to conform to the characteristics set out in the solicitation may require rejection of the offer. The RFP provided that proposals would be evaluated as "highly acceptable," "acceptable," "marginally acceptable," or "unacceptable" under the following technical evaluation criteria, in

descending order of importance; PDM; experience/past performance; manufacturing plan; and quality assurance plan. The evaluation of experience/past performance was to be based on information provided by the offerors concerning contracts for producing the same or similar items performed within the last 2 years. The RFP also stated that technical factors were more important than price, and that award would be based on the proposal most advantageous to the government, price and technical factors considered.

Eight proposals were received by the May 14 closing date. One offeror subsequently withdrew its proposal and, after initial evaluation, four proposals were included in the competitive range. Choctaw's proposal received an overall rating of "marginally acceptable"; the agency determined that its proposal was "acceptable" under three technical evaluation factors and "marginally acceptable" with regard to its PDM.¹ Rutter-Rex's proposal also received a) overall rating of "marginally acceptable"; its proposal was rated "acceptable" under three evaluation factors and "marginally acceptable" with regard to its manufacturing plan. The agency conducted written discussions in which it informed the offerors of all specific deficiencies which had been noted in their proposals. Choctaw was advised that the PDM it submitted was found "marginally acceptable" based on several listed specific dimensional deficiencies. The discussion letter to Choctaw requested that Choctaw submit any clarifications, technical or price revisions, and another PDM by November 4. In response, the protester submitted a letter stating that it noted all of the deficiencies in its PDM, and that it would manufacture its trousers in accordance with the applicable specifications. The contracting officer contacted Choctaw sometime after November 4 and confirmed that Choctaw had not submitted a new PDM. The contracting officer reevaluated Choctaw's proposal and determined that absent a new PDM, it remained "marginally acceptable."

The agency determined that Rutter-Rex had satisfactorily addressed its manufacturing plan discrepancies, and upon reevaluation, Rutter-Rex's proposal was found "acceptable" under all four evaluation factors. The proposal submitted by Equa Industries also received an "acceptable" rating for

¹"Marginally acceptable" is defined in the RFP as meaning that "(t)he manufacturing plan and/or Product Demonstration Model does not meet stated requirements but deficiencies appear to be correctable."

all evaluation factors. Upon reevaluation the fourth proposal was excluded from the competitive range. The evaluation summary of the three proposals remaining in the competitive range was as follows:

	PDM	PAST PERF	MFG PLAN	QA PLAN	OVER ALL
EQUA Ind.	A	A	A	A	A
Rutter-Rex	A	A	A	A	A
Choctaw	MA	A	A	A	MA

The total evaluated BAFO prices were:

	Total Evaluated Price
Rutter-Rex	\$4,424,004.00
Choctaw	\$4,443,288.12
Equa	\$4,598,582.00

While the proposals of Rutter-Rex and Equa were determined to be technically equal, Rutter-Rex's price was \$174,578.00 lower than Equa's. As between the proposals of Choctaw and Rutter-Rex, Rutter-Rex's proposal was technically superior and less expensive than Choctaw's. Accordingly, the contracting officer determined that Rutter-Rex's proposal represented the best value to the government, and the agency made award to Rutter-Rex on January 22. This protest followed.

Choctaw argues that the agency failed to evaluate Rutter-Rex's proposal regarding the experience/past performance of the company in accordance with the RFP evaluation criteria. Choctaw contends that the agency's technical evaluation of Rutter-Rex's proposal was erroneous because Rutter-Rex had not previously manufactured this item.


In reviewing a protest challenging the propriety of a technical evaluation, we will not evaluate a proposal anew and make our own determination as to its acceptability or relative merits, as the evaluation of proposals is the function of the contracting agency. Proprietary Software Sys., B-228395, Feb. 12, 1988, 88-1 CPD ¶ 143. Rather, we will examine the record to determine whether the agency's judgment was reasonable and consistent with the evaluation criteria listed in the RFP. Motorola, Inc., B-234773, July 12, 1989, 89-2 CPD ¶ 39. A protester's disagreement with the agency's evaluation is not itself sufficient to

establish that the agency acted unreasonably. Correa Enters., Inc., B-241912, Mar. 5, 1991, 91-1 CPD ¶ 249. Here, we find that the evaluation was fair and reasonable and in accordance with the RFP's stated evaluation criteria.

Contrary to Choctaw's assumption, the RFP experience/past performance evaluation criterion simply does not require that, in order to receive an acceptable assessment, offerors must evidence experience in manufacturing the exact item being procured under the present solicitation. On the contrary, the RFP provided for evaluation of the experience/past performance of the offerors, on the basis of information provided concerning the manufacture of the same or similar items. Rutter-Rex's proposal listed nine DLA contracts for men's and women's shirts and slacks that it had successfully performed since May 1990. Under three of those contracts, Rutter-Rex manufactured women's white polyester slacks, similar to the men's white trousers being procured under this solicitation. The protester does not dispute that the awardee has appropriate "similar" experience. Accordingly, the record establishes that the agency had a reasonable basis for evaluating Rutter-Rex's experience/past performance as "acceptable," and the award determination was proper.

The protest is denied.



 James F. Hinchman
General Counsel