



Comptroller General
of the United States

Washington, D.C. 20548

Decision

REDACTED VERSION*

Matter of: GEC Avionics, Inc.
File: B-250957; B-250957.2
Date: February 25, 1993

Charles D. Ablard, Esq., Faegre & Benson, and William M. Simmons, Esq., Perkins, Smith & Cohen, for the protester. Gregory H. Petkoff, Esq., Department of the Air Force, for the agency.

Aldo A. Benejam, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging contracting agency's evaluation of protester's proposal and exclusion of the proposal from the competitive range is denied where the record shows the agency's evaluation was conducted in accordance with the solicitation evaluation criteria and that the agency's decision to exclude the proposal was reasonable.

2. New and independent grounds of protest are dismissed where the later-raised issues do not independently satisfy the timeliness requirements of the General Accounting Office's Bid Protest Regulations.

DECISION

GEC Avionics, Inc. protests the rejection of its proposal as technically unacceptable under request for proposals (RFP) No. F41608-92-R-31621, issued by the Department of the Air Force to modernize and upgrade the F-15A/B/C/D/E Avionics Intermediate Shop (AIS), referred to herein as the F-15 Downsized Tester (DST) program. GEC contends that the rejection of its proposal was improper and resulted from a biased evaluation.

*The decision issued on February 25, 1993, contained proprietary information and was subject to a General Accounting Office protective order. This version of the decision has been redacted. Deletions in text are indicated by "[DELETED]."

We deny GEC's initial protest and dismiss its supplemental protest.

BACKGROUND

The F-15 aircraft relies on a variety of highly-complex, high-cost, digital, radio frequency, analog, electro-mechanical, and optical avionics equipment to accomplish its mission. This equipment is supported and maintained by personnel both at home sites and at deployed locations using F-15 AIS equipment. The F-15 DST being procured here consists of a tester and the test program sets (TPS), enabling the testing of F-15 line replaceable units (LRU).¹ AIS equipment is composed of several test stations, which according to the agency, use 1960's vintage technology and mid 1970's hardware. The agency states that the AIS equipment is obsolete; replacement components are not readily available; and the system is unwieldy, requiring some five C-141 transport aircrafts to deploy. According to the agency, these shortcomings resulted in F-15 aircraft being deployed during Desert Storm without adequate AIS support. A comprehensive study performed by the San Antonio Air Logistics Center, completed in August 1990, concluded that the current F-15 AIS would be economically unsupportable by mid-1993, and that in order to continue supporting its F-15 aircraft, the Air Force needed to replace the obsolete test stations.

The RFP, issued on April 28, 1992, seeks proposals to modernize and upgrade the current F-15 AIS equipment through the phased acquisition of the tester and the development, integration, and production of TPS and related support equipment. The solicitation contemplates awarding a contract that includes a cost-plus-incentive-fee (CPIF) portion to develop the test program sets, including software, data, and interface adapters. The CPIF portion of the contract will also cover integration, testing, and program management

¹Section 4.2.1 of the RFP defines "DST system" as:

"a self contained, portable, intermediate level test system for LRUs and selected support equipment used on all models of the F-15 weapon system. The DST system includes everything required to perform testing on the LRU configurations listed in the [statement of work]."

Appendix C of the specifications contains a comprehensive list of all items or LRUs which the DST must be capable of testing.

and transitional support for the DST system. The contemplated contract will also include an indefinite quantity, fixed-price-incentive-fee portion with successive targets provisions covering the production of the testers and TPS.

Offerors were required to submit separate technical and business (cost/price) proposals, prepared in six separate volumes as follows: 1) executive summary; 2) technical approach; 3) producibility/manufacturing capability; 4) program and logistics management; 5) performance risk assessment; and 6) cost/price. A separate attachment to the RFP contained detailed instructions for preparing each volume.

Section M of the RFP stated that proposals would be evaluated in the following areas, listed in descending order of importance: 1) reliability and maintainability; 2) technical approach and specification conformance; 3) contractor integration capability; 4) project and program management; 5) production capability; 6) logistics; 7) total quality management; 8) cost/price.² The RFP stated that each of those areas (except cost/price), would be evaluated using 1) a color and/or adjectival rating depicting how well the offeror's proposal meets the evaluation standards and requirements of the solicitation; 2) a rating assessing the risk associated with the offeror's proposed approach as it relates to accomplishing the requirements of the F-15 DST program; and 3) a performance risk rating assessing the probability of the offeror successfully accomplishing the proposed effort based upon the offeror's demonstrated present and past performance. The RFP stated that within each evaluation area, each of the three ratings (color/adjectival, proposal risk, and performance risk) would be given equal consideration in making an integrated source selection decision.³ The RFP also listed, in descending order of importance, the following "assessment criteria" which the agency would consider in assigning the color and adjectival ratings within each evaluation area: a) impact on schedule; b) approach to overcome data deficiencies;

²The Air Force is conducting this procurement using streamlined source selection procedures as described in Air Force Material Command, Federal Acquisition Regulation Supplement § 15.612-90 and Air Force Regulation § 70-30.

³Exhibit Y of the RFP lists factors and subfactors within each evaluation area which the agency would consider in assigning color and adjectival ratings.

c) understanding of the requirements; d) soundness of approach; and e) compliance with the requirement.⁴

The RFP explained that the areas identified as specific evaluation criteria relate to the major characteristics of the F-15 DST program, while the assessment criteria relate to the offerors' abilities and the content of proposals. The RFP stated that cost/price would be evaluated for realism, completeness, reasonableness. Award was to be made to the offeror whose proposal offers the highest probability of meeting agreed upon technical and schedule requirements, at the cost or price most advantageous to the government.

[DELETED], including GEC, responded by the time set on June 1, 1992, for receipt of initial proposals. Following an initial screening of those offers to determine whether any major deficiencies were apparent, the agency determined that all proposals would be considered for evaluation. A technical evaluation team (TET) evaluated each area of GEC's proposal in accordance with the evaluation criteria announced in the RFP, rating GEC's proposal red-unacceptable and high risk overall, but susceptible of being made acceptable, and included its proposal within the competitive range. Based on that initial evaluation, the TET issued 86 clarification requests (CR) and 18 deficiency reports (DR) to GEC, along with specific instructions for responding to each. Based upon the protester's responses to the CRs and DRs, the TET concluded that GEC's offer still contained six technical deficiencies related to set-up procedures; test accuracy ratio; software declassification and interfacing; development and production of a test program set; capability to operate the DST in a chemical, biological, or radiological environment; and personnel safety and related human factors engineering. As a result of those deficiencies, the TET downgraded GEC's proposal (red-unacceptable, high risk) in the technical approach and specification conformance area, the second most important evaluation area, and eliminated GEC's proposal from further consideration. In a letter dated October 1, which described the basis for the six deficiencies, the agency notified GEC that its proposal had been eliminated from the competitive range. Following an agency-level protest which the Air Force denied, GEC protested to our Office.

⁴The project and program management, production capability, and logistics evaluation factors were of equal importance; assessment criteria b, c, d, and e were also of equal importance.

DISCUSSION

The protester disputes the agency's analyses regarding all six technical deficiencies, arguing that the TET's conclusions were biased and not sufficiently serious or accurate to warrant excluding GEC's proposal from the competitive range. The protester maintains that the agency either misunderstood or misinterpreted GEC's responses to the CRs and DRs, which could have been resolved with further discussions.

In reviewing protests of allegedly improper evaluations, we will not reevaluate proposals, but instead will examine the record to determine whether the evaluators' judgments were reasonable and in accord with the listed criteria. See Interceptor Group Ltd., Inc., B-239490.3, Dec. 4, 1990, 90-2 CPD ¶ 451. The evaluation of technical proposals and the resulting determination of whether a proposal is in the competitive range is primarily a matter within the contracting agency's discretion, since it is responsible for defining its needs and for deciding on the best method of accommodating those needs. Smith Bright Assocs., B-240317, Nov. 9, 1990, 90-2 CPD ¶ 382. Proposals that are technically unacceptable as submitted and would require major revisions to become acceptable are not required to be included within the competitive range. See Interceptor Group Ltd., Inc., supra. As explained in more detail below, we conclude that the Air Force evaluated GEC's proposal in accordance with the stated evaluation criteria, and we see no basis to question the agency's rating of the protester's proposal or the decision to exclude GEC's proposal from the competitive range.

System Set-up

The system specification for the F-15 DST program (SA-ALC/91-RDM-14) incorporated in the RFP stated that "[t]he DST shall be ready to test and diagnose the worst case LRU configuration with no more than one hour setup time"; that "[s]et up and preparation for shipment shall require no more than two persons without special training or qualifications"; that the DST is to be deployed on two "463L pallets"; and that its "transport shall require no more than four persons." See specification §§ 3.1.3.3.1 and 3.5. In response to this requirement, GEC essentially repeated the specification requirements, stating that the DST would be deployable on two pallets; that "[t]he DST system must be capable of being set up for operation" within 1 hour or less; and that "[a]ny action necessary to transform the packed DST system from [the] two pallets . . . to a fully operational test facility ready to test the worst case F-15

LRU, is included in the one hour time limit." Following the initial evaluation, the TET concluded that GEC had failed to show that the DST could be unloaded and completely assembled within the 1-hour time limit, with no more than four persons on site.

The TET found that GEC's proposed set-up procedures were severely lacking in detail, and issued CRs Nos. GEC004 and GEC062, specifically requesting GEC to provide a detailed analysis of its proposed set-up procedures with times assigned to each step. The agency also asked GEC to provide the dimensions and weights of the cases it proposed stacking on the two pallets; the items stored therein; and the maximum number of cable connections between the DST instrumentation components.

In response to CR No. GEC004, GEC did not provide a detailed analysis, or otherwise explain any of the discrete events, personnel, or specific tasks required to complete its set-up procedures. Instead, GEC submitted what it termed a "preliminary setup" procedure which simply listed elapsed times for eight separate steps, consisting entirely of generalized, brief phrases such as "unload DST pallet [No.] 1, remove front and rear covers from enclosures in accordance with enclosure deployment label" (14 minutes) and "assemble and connect power cables; initiate startup procedure" (8 minutes). The protester also provided weights and dimensions for each case, stating that its DST system requires two "463L" pallets for deployment, merely parroting that requirement. Rather than explaining its approach further, however, GEC simply referred the agency back to its proposal for stacking information. Nowhere did GEC provide the level of detail the agency requested, nor explain the particulars of each discrete event or the personnel involved during its set-up procedures.

Although GEC concluded that its DST set-up would be complete in 47 minutes, the TET constructed a time-line using the various values GEC provided in response to the CRs, and concluded that set-up would actually exceed the RFP's 1-hour limit. The agency calculated that GEC's proposed DST system would require 23 cases, 8 weighing more than 150 pounds each, with another 22 cases used for storing cables and fixtures. Given that GEC would be required to unload approximately 45 cases, position the DST station assets, unpack 25 cases, and make 55 cable and hose connections, the TET concluded that GEC could not meet the 1-hour time limit within the RFP's personnel restrictions for that task.

In fact, the agency's detailed analysis and calculations, which are included in the record, reveal that using GEC's values, the protester's set-up procedures would take up to 3.2 hours. In deriving its estimate, the agency considered

the weight characteristics of GEC's equipment and the human factors requirements of MIL-STD-1472, concerning repetitive lifts, incorporated into the RFP.⁵ The agency explains that the disparity between GEC's 47-minute estimate and the agency's 3.2 hours estimate is due to GEC having drastically underestimated the amount of time required for unloading the two pallets and stacking the equipment, and seriously misjudging the time required for connecting all of the necessary cables and hoses. The agency states that the information GEC provided in its proposal and in response to the CRs was incomplete and grossly inadequate, and that its allotted times were severely underestimated. Consequently, the agency asserts, the TET reasonably concluded that GEC's proposal did not comply with the RFP's 1-hour set-up requirements.

GEC responds that the agency miscounted the number of cases, double-counted the time for cable hook-up, and miscalculated GEC's proposed time-line to complete set-up procedures. The protester maintains that its proposed system is comprised of a total of 41 cases, not 45 as the agency calculated, only 4 of which weigh more than 150 pounds each, and asserts that its system would be completely set up within the allotted time. In this connection, GEC asserts that the Air Force did not request the actual breakdown by technician or by minute, or a time-line, and that as a result, the evaluators reached erroneous conclusions. GEC asserts that had the agency specifically requested that information, the TET would not have been left to speculate regarding GEC's actual set-up procedures.

Based on the record before us, we have no basis for objecting to the agency's conclusion that GEC's proposal does not meet the set-up time requirements. The RFP instructed offerors that proposals should be specific and complete, and contain only pertinent information presented in a logical, coherent manner, and cautioned offerors against simply restating the government's requirements. The RFP warned that proposals that paraphrase the RFP, state only that the offeror "will comply with [it]," or repeat specification requirements, would not be considered acceptable. Despite these specific warnings, GEC essentially repeated the language in the RFP, stating only that the system would be capable of being set up for operation and transportation "quickly." Although GEC acknowledged in its proposal that each of "those operations" must be demonstrated to take 1 hour or less, the protester's mere paraphrasing of the requirements lacks any detailed explanation of how system

⁵According to the agency, MIL-STD-1472 provides a formula which it used for deriving allowable weights as a function of repetitive lifts.

set-up would be accomplished within the RFP's 1-hour time limit.

The agency pointed out this deficiency in CR No. GEC004, which asked GEC to provide dimensions and weights for the cases, and a "detailed analysis of [GEC's] proposed setup procedure with times assigned to the appropriate setup steps." Rather than providing a detailed explanation of its set-up procedure as requested, GEC responded with only brief, nonspecific phrases, which raised further doubts in the evaluators' minds as to the particulars of each step involved and as to whether GEC's system could actually be set up within the 1-hour limit.⁶ In view of the lack of specific information in GEC's proposal, and given the brief, generalized nature of GEC's responses to the CRs in this regard, the TET reasonably generated its own time-line and reasonably concluded that the system GEC proposed did not meet the set-up time requirements, rendering the firm's proposal unacceptable.

Test Accuracy Ratio

Section 3.1.3.11 of the system specification requires that the DST provide a test accuracy ratio (TAR) of not less than 4:1. In evaluating GEC's compliance with that requirement, the TET noticed that in one section of GEC's proposal, the protester asserted that "specific test equipment types were selected that meet the general stimulus and measurement needs while also providing the required [TAR] of 4:1," but in another section of its proposal, GEC took exception to the requirement, stating that the "DST does not fulfill the 4:1 TAR" requirement. Assuming that the discrepancy may have been an inadvertent error, the TET issued CR No. GEC101 asking GEC to clarify the contradiction. In its response, GEC stated that under certain circumstances, its proposed

⁶As for the protester's contention that the agency miscounted the number of cases, in response to CR No. GEC004, GEC listed in chronological order from "enclosure [No.] 1" to "enclosure [No.] 45" the number of cases its system requires for deployment. That listing omits enclosures Nos. 14, 25, 28, and 29, and GEC did not explain whether such omissions were deliberate or made in error. Accordingly, since GEC simply referred the agency back to its proposal for stacking information, and those 4 cases were included in the proposal, we think that the evaluators reasonably assumed that GEC's system consisted of 45 enclosures, and reasonably based their calculations on that assumption. In any event, the protester has not shown how omitting the four cases from the TET's calculations would have affected the conclusion that GEC's proposed DST could not be completely set up within 1 hour.

equipment meets only a 2:1 TAR. GEC asserted that the firm did not consider that a problem, however, because the "power load has a fine enough resolution . . . that the initial load setup accuracy (i.e., the 4:1 TAR requirement) is irrelevant." The agency explains that since "resolution" does not equate to TAR, and since GEC had provided insufficient information in its response to enable the TET to conclude that GEC's system would in fact comply with the RFP's 4:1 TAR requirement, the TET concluded that GEC's proposal was unacceptable.

GEC argues that the Air Force's CR was not specific enough; that its noncompliance with the TAR requirement affects only one out of 63 TPSs; that it submitted the information required to make the relevant calculations in response to a different request (DR No. GEC025), suggesting that the TET should have relied on that response to determine whether GEC complied with the 4:1 TAR requirement; and that its proposed procedure to achieve test accuracy is commonly used on other similar Air Force programs.

While the protester concluded in its response to CR No. GEC101 that "GEC is in full compliance" with the TAR requirement, our review of the protester's response reveals that GEC did not provide an engineering analysis or any computations in support of its assertion, and GEC did not refer the TET to any other response. Nor did GEC provide any detailed explanation supporting its position that its proposed testing technique, while noncompliant, would produce valid measurements at the 4:1 TAR level.

While the agency acknowledges that the technique GEC suggests might be acceptable in other settings, each procurement is unique and the RFP here specifically required the DST to meet a 4:1 TAR. Given the contradiction in its proposal, and its specific response to the CR that under certain circumstances its system only meets a 2:1 TAR, without a more detailed explanation of how GEC intended to comply with the more stringent requirement, the TET reasonably concluded that the protester had taken exception to the 4:1 TAR requirement, rendering its proposal unacceptable.

GEC now asserts that its noncompliance with the RFP affects only one out of 63 TPS, essentially arguing that its noncompliance is minor and should be waived. The accuracy of GEC's assertion that its noncompliance would only affect one LRU is not evident from GEC's proposal or from its response to the CR. Moreover, the RFP made it clear that the DST had to meet the 4:1 TAR, and simply provided no exceptions or deviations from that requirement.

LRU Test Plan

Section 3.6.2 of the instructions for proposal preparation, entitled "{LRU} Test Plan," specifically instructed offerors as follows:

"For the LRUs listed in Appendix C . . . prepare an LRU test plan that describes test objectives and types of tests required to test all LRUs. Since this is the primary function of the DST system, include very detailed information to show a clear understanding of the techniques currently used for complex avionics LRU testing, and improvements advanced by the application of DST principles to your design." [Emphasis added.]

The referenced appendix C lists 97 LRUs, including a "Displacement Gyro" (CN-1375/ASN-108). The agency states that any discussion of successfully testing the displacement gyro unquestionably requires discussion of a "Scorsby Table" used for mounting the equipment being tested. According to the agency, no offer could be accepted which did not account for the table as an integral part of its system.

The agency states that although several portions of GEC's proposal indicated that the protester planned to test the displacement gyro, other portions left doubt in the evaluators' mind about GEC's intent to provide a system capable of testing the displacement gyro. For example, while GEC stated in its proposal that "[a]ll tests require the LRU to be mounted on a Scorsby Table which is then fitted to the Rate Table," other portions of its proposal were devoid of any calculations or discussions covering the Scorsby Table, where such discussions would ordinarily be found. In fact, GEC included a subsection in its proposal entitled "NEW TEST PHILOSOPHY," in which GEC listed several reasons why it believed that the displacement gyro is an "unsuitable candidate" for testing at the intermediate level by the DST, casting further doubt in the evaluators' minds on GEC's intent to test that LRU with its DST.

In view of the inconsistencies in GEC's proposal, and in an effort to clarify GEC's intent, the agency issued CR No. GEC093, noting the conspicuous absence of the "(required) Scorsby motion table" from the equipment lists, and specifically stating that "[i]t appears that you do not intend to include [the displacement gyro] in the suite of LRUs you will test. Is this correct? If not, please explain the inconsistencies and your test philosophy." In response, GEC again recommended that the displacement gyro not be tested by the DST, providing additional reasons in support of its suggestion, including that the LRU would have been mounted to a "very stringent accuracy requirement, on a

Scorsby Table." According to GEC, that requirement was incompatible with the purpose of the DST. Based on GEC's response, the TET concluded that GEC had provided an inadequate approach for testing the displacement gyro, rendering its proposal unacceptable.

GEC concedes that it submitted a noncompliant solution regarding the displacement gyro, but that it was intended only as a "recommendation," which, according to GEC, would be a more cost efficient approach to testing that LRU. According to GEC, the TET failed to recognize that the proposal was "intentionally noncompliant" in this regard, and improperly attempted to evaluate its offer without fully considering the recommendation. The protester contends that the Air Force's issuance of a CR, instead of a DR, led GEC to believe that the Air Force accepted, "or at least was not perturbed by its approach on this LRU " and therefore concluded that it need not redesign its system. GEC further argues that since its approach affects only 1 out of 97 LRUs, and it proposed to test all other LRUs, it was unreasonable for the TET to reject the entire proposal as noncompliant on this basis.

GEC's assertions that the Air Force should have regarded its discussion of the displacement gyro issue as an alternate approach, rather than as showing GEC's noncompliance with the RFP's requirements, is simply not persuasive. The record shows that, prior to issuing a final RFP, the agency encouraged offerors to be innovative, issuing a draft RFP specifically requesting industry input based upon its expertise. A cover letter to that draft RFP encouraged offerors to raise questions, make general comments, and propose suggestions regarding any part of the solicitation package. Regarding testing, the agency encouraged potential offerors to recommend alternate procedures and test programs for its consideration. For instance, the agency specifically requested the industry to comment on whether the following draft RFP provision was in any way "limiting or constraining:"

"(1) the quantity of TPS to be developed and methods which could be implemented to reduce the number of TPS, without either decreasing the quantity of LRUs to be tested or reducing throughput capability or system reliability."

The agency states that although it received several constructive comments in response to the draft RFP which helped improve on the solicitation, GEC did not suggest eliminating the displacement gyro from the list of items to be tested or offer any alternate approaches to testing that LRU in response to the draft RFP.

Further, although section L-901 of the RFP authorized offerors to submit alternate proposals, that section specifically required offerors to "submit a Basic Proposal in full compliance with the RFP," and cautioned that an alternate proposal "must be a complete proposal, not merely changed pages to the Basic Proposal." Even if GEC's brief discussion of the displacement gyro issue was intended as a "recommendation," an alternate approach, or a suggested engineering change, therefore, it is clear that GEC did not submit a basic proposal that complied with the RFP requirements and did not submit an alternate proposal in accordance with section L-901. Consequently, we find that the TET reasonably concluded that GEC's proposal did not comply with the RFP's LRU test plan requirement.⁷

GEC's contention that its noncompliance with the testing requirement for the displacement gyro--only 1 of 97 LRUs--should not have disqualified its proposal is without merit. As quoted above, the RFP's instructions required "very detailed" information in a test plan that describes test objectives and types of tests required to test all LRUs, without exception, and GEC admits to having submitted a noncompliant proposal in this regard. The RFP made it clear that the primary purpose of the DST was to test the full range of LRUs listed in the RFP, and the detailed test plan required for each of the 97 LRUs listed in the appendix constitutes a separate and distinct requirement. We thus find that GEC's proposal, which offered a test plan for less than all LRUs, was properly found unacceptable on this basis.

GEC contends that with respect to the LRU test plan, the agency should have issued a DR instead of a CR, arguing that the agency misled the protester into believing that its approach was acceptable. In the absence of a showing that meaningful discussions were not conducted, the identification of a discussion question as a CR rather than as a DR does not in itself provide any basis for protest. Beneco Enters., Inc., 70 Comp. Gen. 574 (1991), 91-1 CPD ¶ 595. Here, each of the CRs and DRs issued to the protester identified the applicable evaluation area, referenced the specific proposal section and page, and identified the specification by paragraph, including the CR issued with

⁷In a supplemental submission, the protester seems to argue that it included the costs of testing the displacement gyro in its cost proposal "if the agency desired the test," and stating that the "alternate [proposal] is right there in GEC's cost proposal." GEC's inclusion of such costs in its price/cost proposal, however, is not a substitute for submitting a basic technical proposal that fully complies with the RFP, which GEC admittedly failed to do.

respect to the displacement gyro. The questions asked in that document, together with the knowledge that GEC had not submitted a complete test plan for all LRUs, should have at a minimum placed GEC on notice that the agency found its approach questionable.

The protester also generally argues that the agency should have been more specific with respect to the information it required to clarify the deficiencies. It is incumbent on an offeror to demonstrate the acceptability of its proposal, however, and by merely parroting back the RFP's requirements, GEC failed to do so. See Interceptor Group, Ltd., Inc., supra. An offeror must demonstrate affirmatively the merits of its proposal, and runs the risk of rejection if it fails to do so. See RCA Serv. Co. et al., B-218191; B-218191.2, May 22, 1985, 85-1 CPD ¶ 585. While the protester disagrees with many of the TET's conclusions regarding its proposal, GEC's mere disagreement with the agency does not render the evaluation unreasonable, particularly where, as here, the procurement concerns sophisticated technical hardware and services. DBA Sys., Inc., B-241048, Jan. 15, 1991, 91-1 CPD ¶ 36.⁹

Regarding the remaining deficiencies, we have reviewed the record, including the TET's narrative supporting the evaluation of GEC's proposal on these issues, and the protester's extensive submissions in these proceedings. Based on our review, we find that the unacceptable rating assigned GEC's proposal under the technical approach and specification conformance area is reasonably supported by the record; thus, the agency properly considered GEC's technical proposal unacceptable overall. Since GEC's proposal was determined to be technically unacceptable, it was properly excluded from the competitive range, [DELETED] and properly was not the subject of further discussions. See TLC Sys., B-243220, July 9, 1991, 91-2 CPD ¶ 37.

To the extent that GEC argues that the agency's conclusions were the result of a biased evaluation, or that the TET had reached its conclusions before gathering relevant data,

⁹In several extensive supplemental submissions, GEC expands upon the merits of its proposal with respect to each of the six technical deficiencies, explaining in great detail how it proposes to meet the RFP's requirements. No matter how competent a contractor may be, however, a technical evaluation must be based on information in or submitted with the proposal. Watson Indus., Inc., B-238309, Apr. 5, 1990, 90-1 CPD ¶ 371. The protester had ample opportunity to address the agency's concerns in its proposal and in response to the CRs/DRs, and failed to do so. GEC may not now correct the deficiencies in its proposal.

government officials are presumed to act in good faith and, for us to conclude that bias existed, the record must contain convincing evidence that contracting officials had a specific and malicious intent to injure the protester. Jaycor, B-240029.2; B-240029.3, Oct. 31, 1990, 90-2 CPD ¶ 354. While it is clear that GEC disagrees with the agency's assessment of its proposal, there is no evidence in the record that the rejection of its proposal is the result of a biased evaluation, or that the TET based its conclusions on something other than GEC's proposal. As stated above, we reviewed the evaluation in the context of GEC's arguments and find that the evaluator's conclusions are reasonably supported by the record. Given the lack of any credible evidence of bias in the evaluation of GEC's proposal, we have no basis to question the motives of the evaluators.

SUPPLEMENTAL PROTEST

On December 8, 1992, GEC filed a supplemental protest (B-250957.2) in our Office based upon five "additional weak points" the agency found with respect to GEC's technical proposal. GEC alleges that it first learned of these bases for protest from information contained in the agency's administrative report, which it received on November 20.

Under our Bid Protest Regulations, a protest must be filed within 10 working days after the basis of the protest is known or should have been known, whichever is earlier. 4 C.F.R. 21.2(a)(2) (1993). Where a protester initially files a timely protest and later supplements it with new and independent grounds of protest, the later-raised allegations must independently satisfy the timeliness requirements since our Regulations do not contemplate the unwarranted piecemeal presentation or development of issues. See EER Sys. Corp., 69 Comp. Gen. 207 (1990), 90-1 CPD ¶ 123.

Since GEC does not dispute that the information which formed the bases for its supplemental protest was contained in the agency report, and the protester received the report on November 20, GEC was required to raise those new issues within 10 working days from that date, or by December 7. While we granted GEC an extension of time to file its comments until December 16, such extensions do not waive our timeliness requirements for filing protests. See Unitor Ships Serv., Inc., B-245642, Jan. 27, 1992, 92-1 CPD ¶ 110. Since GEC did not file its supplemental protest until December 8, more than 10 working days after November 20, the independent issues in GEC's new protest are untimely filed

and will not be considered.⁹ See Tri-States Serv., B-232322, Nov. 3, 1988, 88-2 CPD ¶ 436. In any event, even if we were to consider GEC's allegations regarding these five additional "weak points," such review would have no impact on our conclusion here that the TET reasonably found GEC's proposal unacceptable based on the six technical deficiencies identified above, and properly excluded the firm's proposal from the competitive range on that basis.

The initial protest is denied; the supplemental protest is dismissed.

James F. Hinchman
General Counsel

⁹The fact that GEC retrieved the agency report by private courier on Friday, November 20, and that counsel for GEC did not actually receive the report until he returned to his office the following Monday, November 23, as GEC argues, is of no significance and does not waive our timeliness rules.