



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Trend Western Technical Corporation

File: B-275395.2

Date: April 2, 1997

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DIGEST

Agency selection of a higher-priced, higher technically rated offer instead of the low-priced, lower-rated offer was reasonable and consistent with the solicitation evaluation criteria which provided that all factors, when combined, were significantly more important than price, where the protester's proposed staffing levels were reasonably found to be low and insufficient.

DECISION

Trend Western Technical Corporation protests the award of a contract to TECOM, Inc. under request for proposals (RFP) No. F05604-96-R-9006, issued by the Department of the Air Force, for base supply and vehicle operation and maintenance in support of Peterson Air Force Base, Colorado Springs, Colorado. Trend Western objects to the evaluation of its proposal and the agency's best-value award determination.

We deny the protest.

The RFP, issued April 23, 1996, contemplated the award of a fixed-price contract on a best value basis to the offeror whose proposal best satisfied the specified requirements in light of the RFP's evaluation criteria. To this effect, the RFP stated:

"Three evaluation areas will be considered: technical, management and price. Technical and Management Areas are considered equal in importance and are significantly more important than cost or price. All evaluation factors other than cost or price, when combined, are significantly more important than cost or price. Even though cost is

less important, it will by necessity bear considerable effect on the source selection decision."

Under the Technical area, the listed evaluation factors were Computer Support and Operations, Vehicle Maintenance, Supply Fuels Management, and Vehicle Operations; the first two technical factors were said to be equal in importance, while the other technical factors were equally important but less important than the first two factors. Under the Management area, the factors, listed in descending order of importance, were Functional Management, Personnel, and Quality Control Program. Regarding the personnel factor, the RFP advised offerors that "[t]he [g]overnment would assess the offeror's soundness of approach and understanding of the requirement to satisfying the staffing and key personnel qualification requirements necessary for performance" of the contract. The RFP also provided that offerors' proposals would be evaluated for proposal risk and performance risk under the technical and management evaluation areas and factors.¹ Cost/Price was to be evaluated for completeness, realism, and reasonableness.

The Air Force received six proposals by the June 10 closing date for receipt of proposals. Three proposals, including TECOM's and Trend Western's, were included in the competitive range. Discussions were conducted, and best and final offers (BAFO) were received on September 6. Trend Western submitted the lowest-priced BAFO of \$28,505,240, which the agency rated green/acceptable with low proposal risk for all of the technical and management factors except Personnel, which received a yellow/marginal rating with a moderate proposal risk because the proposed staffing was found to be "low" in all areas with "insufficient manning to perform some supply functions." Trend Western's performance risk for both the technical and management areas was rated low. TECOM submitted the second low-priced BAFO of \$31,565,631, which was rated green/acceptable with low proposal risk for all of the technical and management factors, and with low performance risk for the technical and management areas. The third proposal received identical ratings to those received by TECOM, but was higher priced.

In making the best value award determination, the agency found no significant strengths/weaknesses distinguishing the three proposals under the technical and management factors, except under the personnel factor. The agency rated Trend Western's BAFO yellow/marginal with a moderate proposal risk under the personnel factor because, even after the agency raised its concern about Trend Western's low staffing during discussions, Trend Western's BAFO reflected "low staffing in all

¹Proposal risk was to "assess the offeror's proposal risks inherent in a proposed approach [and] the economic impacts on cost and schedule associated with the approach." Performance risk was to assess the quality of "relevant performance on contracts of a similar nature."

areas and insufficient manning to adequately perform the supply function." Specifically, the agency noted:

"Trend Western proposed [DELETED] personnel below the government estimate in computer support and operations (based on workload provided). They did not demonstrate clear evidence of their ability to perform the required tasks with the manning proposed. [DELETED] No advanced technology or methods were proposed to alleviate [g]overnment concerns. Worldwide support . . . could be seriously jeopardized, leading to mission degradation and possible work stoppages. The recent change in shopper authorization procedures will mean the average number of customers will actually increase, generating even more issues. The proposed manning by Trend Western failed to meet the personnel standard of providing staffing adequate to meet necessary performance throughout the contract period."

Since successful timely performance of the contract was considered more important than price, the agency found that the price advantage associated with Trend Western's proposal was offset by the concern for "potential non-performance of required services, increases in required government surveillance, and risk associated with low manning in a critical function." In contrast, the agency found that there was little doubt that TECOM (or the highest-priced offeror) could successfully perform the contract, as indicated by its higher technical ratings. Consequently, TECOM's proposal was determined to be the best overall value. Award was made to TECOM on December 11 and this protest followed.²

Trend Western first argues that the agency unreasonably determined its level of staffing to be inadequate because the government's manning estimate was faulty and because the agency did not reasonably consider Trend Western's innovative staffing approach to meeting the RFP requirements, [DELETED].

In reviewing an agency's evaluation conclusion, we examine the record to determine whether the judgment was reasonable and in accord with the evaluation criteria listed in the solicitation. A protester's mere disagreement with the agency's evaluation determination does not demonstrate that the evaluation was unreasonable. Research Analysis and Maintenance, Inc., B-272261; B-272261.2, Sept. 18, 1996, 96-2 CPD ¶ 131 at 6.

²The agency initially awarded the contract to TECOM on October 16, but this award was protested by Trend Western and later withdrawn after the agency undertook a new source selection because of an error. Trend Western filed this second protest after the agency again awarded the contract to TECOM.

As indicated above, the Air Force downgraded Trend Western's proposal under the personnel factor because its proposed manning level was considered low, as compared with the government's estimates, particularly for certain critical supply functions where Trend Western's manning level was considered insufficient. The Air Force reports that the manning estimate, developed as a means of measuring the sufficiency of the offerors' manning levels, was based upon the current contract manning levels, the work load estimates reflected in the RFP, and the agency's professional judgment. While the protester generally disputes the agency's conclusions as to the proper manning levels, an agency may properly use a manning estimate as an aid in the evaluation of proposals, where, as here, the manning estimate is reasonably based on tasks in the solicitation and reflects the agency's business judgment, considering its own experience and current requirements, concerning the minimum number of personnel necessary to perform the work. Aerostat Servs. Partnership, B-244939.2, Jan. 15, 1992, 92-1 CPD ¶ 71 at 4.

The record reflects that the Air Force considered Trend Western's staffing approach, including [DELETED] but was not persuaded that the agency's mission requirements could be met with Trend Western's low staffing levels. For example, the agency found that the [DELETED]. Also, the agency found that given the number of requisitions processed by the agency per month, monitoring, performing follow-ups, and taking aggressive actions on overdue requisitions would require more than the few personnel proposed for this function by Trend Western, particularly since it was projected that the number of requisitions would increase in the future. Moreover, the agency found that [DELETED] did not seem to be a satisfactory solution because Trend Western proposed significantly less personnel.

Trend Western argues that the agency's concerns are not valid and reflect that the agency did not understand Trend Western's staffing approach, and that the contract requirements could be successfully met with the quality and level of manning proposed by Trend Western. As noted by the agency, Trend Western's now advanced explanations of the advantages of its staffing approach were not so clearly elucidated in its proposal. Moreover, the agency still finds these explanations unpersuasive, given Trend Western's low staffing, particularly in some critical areas. In any case, Trend Western's arguments in this regard merely represent the protester's disagreement with the agency's conclusions and thus do not show that the agency's evaluation of Trend Western's manning approach was unreasonable. See Proteus Corp.; United Int'l Eng'g. Inc., B-270094; B-270094.2, Feb. 8, 1996, 96-1 CPD ¶ 165 at 4.

Trend Western also argues that the Air Force's best value determination to select TECOM's higher-rated, higher-priced proposal over Trend Western's lower-priced, slightly lower-rated proposal gave undue weight to the personnel factor, did not give the "considerable effect" to price contemplated by the RFP evaluation scheme, and did not adequately account for Trend Western's low performance risk.

Where, as here, the RFP provides that the award is to be based upon the best value to the government with technical considerations considered more important than price, agency selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and price evaluation results in making price/technical tradeoffs, subject only to the tests of rationality and consistency with the established evaluation factors. Criterion Corp., B-266050, Jan. 23, 1996, 96-1 CPD ¶ 217 at 4; Engineering and Professional Servs., Inc., B-262179, Dec. 6, 1995, 95-2 CPD ¶ 266 at 4.

As indicated above, the record demonstrates that the Air Force reasonably found and documented that the cost advantage associated with Trend Western's proposal did not outweigh the noted disadvantages and risks associated with its low or insufficient manning levels, as compared to TECOM's proposal's satisfactory manning levels.

Trend Western argues that the agency deviated from the RFP evaluation scheme by giving too much weight to the personnel factor. The protester notes in this regard that the only technical/management discriminator among the proposals noted in the best value award determination was under the personnel factor, and the RFP evaluation scheme only stated that the combined weight of the technical and management factors was "significantly more important" than price. We disagree.

In a best value procurement, particularly where technical factors are more important than price, an agency may ultimately focus on a particular discriminator in deciding not to select the low-priced offeror. Teledyne Brown Eng'g, B-258078; B-258078.2, Dec. 6, 1994, 94-2 CPD ¶ 223 at 12-13. Here, the agency found that Trend Western's low staffing rendered its proposal significantly inferior to the other competitive range proposals, which reflected adequate staffing, so as to offset Trend Western's \$3 million price advantage. Specifically, the record shows that the Air Force reasonably found that Trend Western's low price did not outweigh the risks of possible degradation in service associated with an undermanned proposal, particularly given that a delay in the delivery of parts could disrupt critical agency missions, increase costs, and jeopardize national security.

Trend Western argues that its low performance risk rating was not considered in the best value award determination because its track record demonstrates that it could successfully perform the contract with fewer but higher quality staff. This argument evidences some confusion between performance risk and proposal risk. While Trend Western was credited for its quality past performance in the best value award determination, the agency's concern with Trend Western's proposal involved the staffing levels in its proposal in response to this RFP, that is, its proposal risk. In other words, notwithstanding Trend Western's highly rated past performance, its proposal here was reasonably found to represent a moderate proposal risk because of the agency's reasonably based concerns that Trend Western may not be able to successfully accomplish the contract requirements with its proposed staffing.

In sum, the agency reasonably found in accord with the RFP evaluation scheme that TECOM's higher-priced, higher-rated proposal was worth the \$3 million price premium, given the disadvantages and risks presented by the low-priced proposal.

The protest is denied.

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