

Gordon



Comptroller General
of the United States

122478

Washington, D.C. 20548

Decision

Matter of: TRW Inc.
File: B-260779.3
Date: August 7, 1995

Kenneth B. Weckstein, Esq., and Raymond Fioravanti, Esq., Epstein Becker & Green, for the protester. Thomas J. Madden, Esq., and John J. Pavlick, Jr., Esq., Venable, Baetjer, Howard & Civiletti, for Raytheon Company, an interested party. Charles J. McManus, Esq., and J. Cole Cartledge, Esq., Department of the Navy, for the agency. Daniel I. Gordon, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Rejection of proposal as technically unacceptable is unobjectionable where agency reasonably concluded that the proposal failed to demonstrate that it satisfied material solicitation requirements.

DECISION

TRW Inc. protests the rejection of its proposal as technically unacceptable under request for proposals (RFP) No. N00019-94-R-0030, issued by the Department of the Navy, Naval Air Systems Command. TRW contends that the Navy had no reasonable basis to reject the proposal.

We deny the protest.

The Navy issued the solicitation on September 8, 1994, to obtain proposals for a joint tactical combat training system (JTCTS), a joint program of the Departments of the Navy and the Air Force. Using sophisticated technology to provide realistic combat training for aircraft, ship, and submarine crews, the JTCTS creates accurate and timely engagement simulations, records the engagements in detail, and allows later review and analysis of potential alternative scenarios. For example, the system can track and manage complicated combat scenarios involving several hundred aircraft and several ships and submarines, and then provide

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detailed information showing whether a particular aircraft was traveling at the correct speed, location, and angle of attack for its bomb drop to hit its target.

Section M of the RFP set forth as the evaluation criteria technical, cost, management, and integrated logistics support, in descending order of importance. The RFP provided that evaluation of the most important criterion, technical, would entail an assessment of the offeror's understanding of the RFP requirements, the degree to which the offeror's proposal would satisfy those requirements, and the risk associated with the proposal.

The elements of the technical evaluation were identified as performance, system engineering, software engineering, test and evaluation, and production, with performance being more important than the other four elements combined. Section M described the evaluation of performance in the following terms:

"The Government will assess the extent to which the offeror's proposed design meets system performance requirements. The Government will also assess the offeror's derivation of design parameters from JTCTS operational/functional performance requirements. Special emphasis will be placed on data communications, system quality factors, and platform functionality/interfaces."

The solicitation advised offerors that the government intended to award a contract on the basis of initial proposals, without holding discussions with the offerors. The RFP also provided that a "deficiency in an offeror's proposal may result in the proposal being found unacceptable."

Proposals were received by the November 7 closing date from three firms, including TRW and Raytheon. The source selection evaluation board (SSEB) evaluated proposals and transmitted its conclusions to the source selection advisory council (SSAC). The SSEB determined that the proposals of TRW and the third offeror were technically unacceptable with high-risk due to numerous deficiencies that could be remedied only through a major redesign. The SSEB found that Raytheon's proposal was technically acceptable.

The SSAC concurred in the SSEB's determination that Raytheon's proposal was acceptable and that the other two proposals were not. Because it found that Raytheon's proposed cost was reasonable, it recommended that award be made to Raytheon. The source selection authority concurred with that recommendation, and a contract was awarded to Raytheon on March 6, 1995, in the amount of \$221 million.

TRW contends that the Navy lacked a reasonable basis to reject its proposal as technically unacceptable. TRW argues that the Navy's evaluation of its proposal reflected a misapplication of the RFP criteria and a misreading of the proposal, and that any weaknesses which did exist in its proposal were informational only and could have been remedied through discussions. TRW points out that its proposed cost was approximately \$100 million lower than Raytheon's, and contends that it was unreasonable for the Navy to select Raytheon without consideration of its much higher cost.

The evaluation of proposals is within the discretion of the procuring agency because that agency is responsible for defining its needs and the best methods for accommodating them, and the agency will bear any burden resulting from a defective evaluation. Orion Research, Inc., B-253786, Oct. 21, 1993, 93-2 CPD ¶ 242. In deciding protests challenging an agency's technical evaluation, our Office will not independently reevaluate proposals, but instead will examine the agency evaluation to ensure that it was reasonable and consistent with the solicitation evaluation criteria. Building Servs. Unlimited, Inc., B-252791.2, Aug. 25, 1993, 93-2 CPD ¶ 133. A protester's disagreement with the agency's technical judgment, without more, does not show that the agency's judgment was unreasonable. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450.

In this case, the Navy determined that TRW's proposal was technically unacceptable for failing to demonstrate compliance with a substantial number of solicitation requirements. If that determination was reasonable, the Navy properly could eliminate TRW's proposal from consideration and award to Raytheon, notwithstanding its higher cost.¹ Inasmuch as the RFP warned offerors that award might be made on the basis of initial proposals, the agency was under no obligation to conduct discussions in order to afford TRW the opportunity to render its proposal technically acceptable. While TRW contends that it could

¹This assumes, of course, that Raytheon's proposal was technically acceptable and that the offeror was found responsible, matters not at issue in this protest. While TRW alleges that Raytheon's cost was unreasonably high, determinations of cost reasonableness are generally within the discretion of procuring agencies, Coastal Indus., Inc., B-230226, May 3, 1988, 88-1 CPD ¶ 431, and nothing in the record demonstrates that Raytheon's cost was unreasonably high. The fact that TRW's technically unacceptable proposal carried a much lower cost indicates nothing about the reasonable cost of an acceptable proposal. See Valley Constr. Co., Inc., B-243811, Aug. 7, 1991, 91-2 CPD ¶ 138.

have readily furnished additional information during discussions to establish compliance with the solicitation requirements, an offeror has an obligation to submit a proposal which fully demonstrates that it meets those requirements. Cyber Digital, Inc., B-255225, Feb. 18, 1994, 94-1 CPD ¶ 123.

The Navy identified a substantial number of areas in which TRW's proposal was found not to have demonstrated compliance with material solicitation requirements, either because it proposed a solution which did not satisfy a material requirement in the RFP or because it failed to address an RFP requirement.² Due to those deficiencies, TRW's proposal was assigned the lowest rating ("unsatisfactory") under the performance element which, as explained above, was more important than the other four technical evaluation elements combined. Because the unsatisfactory rating in that most heavily weighted area would justify rejection of the proposal as unacceptable, we do not address the other evaluation elements. Moreover, under the performance element, the Navy found multiple deficiencies, and the determination of overall technical unacceptability would have been reasonable without reliance on all of them. For that reason, and for the sake of brevity, we address only three significant aspects of the disputed evaluation.

The first issue concerns the specifications related to data communications, which section M stated would receive "special emphasis" in the evaluation. Specifically, the RFP required that the instrumentation datalink network (IDN) "shall provide service for core unit locations in any worldwide area" and the "IDN shall be capable of providing service 24 hours per day without interruption." TRW proposed to rely on a system which, as TRW concedes, cannot be used 24 hours a day throughout the world. TRW points out, however, that its proposal said that two additional solutions would also be used, which, together with the first, would satisfy the requirement for coverage 24 hours a

²TRW asserts, and the Navy denies, that the SSEB identified only four deficiencies, which, in TRW's view, is not a "significant number." TRW also contends that the evaluators did not specifically identify any of the deficiencies in its proposal as "major" or "significant," while the Navy contends that several of the deficiencies were viewed as major (including the three matters discussed in this decision). In our view, the issue is not whether there were four deficiencies or more, or whether specific adjectival modifiers were assigned to the deficiencies, but whether the agency had a reasonable basis to conclude that TRW's proposal had failed to demonstrate that it would satisfy material RFP requirements.

day throughout the world. The Navy found this aspect of the proposal unsatisfactory, both because the other two systems relied on are in the developmental stage and therefore unavailable, and because their use is not supported by the design set forth in TRW's proposal. Consequently, the Navy concluded that TRW had not proposed a workable IDN solution, and that doing so would require a redesign of this significant section of the proposal. While TRW believes that its solution is workable, it has failed to show that any aspect of the Navy's judgment in this area was unreasonable.

The second issue concerns the minimum success rate required for delivery of messages. The solicitation stated that:

"The IDN shall provide sufficient data throughput to support the required message traffic loading during each operating state for any participant using any combination of addressing mode, category of service, or quality of service. Probability of real-time message delivery shall be better than 95% of any consecutive 10^6 message attempts."

TRW included with its proposal a study that reported a probability of message delivery as low as 82 percent. The Navy concluded that the study indicated that TRW's proposal failed to satisfy the 95-percent minimum required delivery rate. TRW contends that the study was not included in its proposal to show its message delivery rate but to demonstrate how the rate would be measured, and that the study involved conditions which were artificially demanding. The Navy responds that it reasonably considered the information that TRW chose to include with its proposal, and that the conditions in the study do not appear to be more demanding than those under which the JTCTS will be required to perform.

TRW has not shown that the agency's evaluation of this aspect of its proposal was unreasonable. The agency could only evaluate the information that TRW provided, and the proposal did not indicate that TRW's study could not properly be considered as an indicator of the message rate under TRW's approach.

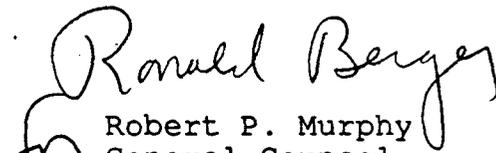
The final issue that we address here is the RFP requirement related to transmission range. The RFP required that the IDN radio signal reach all participants within a particular range, which necessitated a calculation, in what is referred to as a "power budget," of the factors that would weaken the radio signal strength. While the power budget in TRW's proposal identified and accounted for some of those factors, the Navy concluded that TRW had failed to consider a number of key factors and, once those factors were taken into

account, TRW's technical proposal would be inadequate. TRW responds that it either explicitly took the other factors into account in its proposal or included them in its calculations, even if they were not expressly identified in the proposal. According to TRW, its proposed solution was technically acceptable, and the Navy must have double-counted the power loss factors to reach the contrary conclusion. In response, the Navy has identified specific power loss factors that were not included in TRW's proposal and it has pointed out at least one error in TRW's power loss calculation.

In this area, again, TRW clearly disagrees with the Navy's technical judgment, but it has not shown that the agency's judgment was unreasonable. Moreover, it has not refuted the specific criticism regarding error and omissions in TRW's calculation.

We conclude that the Navy's evaluation of TRW's proposal and its conclusion that revision of the relevant portions of TRW's proposal to correct the problems identified here would entail a substantial rewriting of the proposal was reasonable. Under the circumstances, the Navy's rejection of TRW's proposal as technically unacceptable is unobjectionable.

The protest is denied.


Robert P. Murphy
General Counsel