



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Contel Federal Systems

File: B-243624.2

Date: October 10, 1991

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DIGEST

1. Protest that awardee did not propose commercial-off-the-shelf (COTS) equipment in response to solicitation for radio communications system is denied where solicitation, as reasonably interpreted, did not make COTS equipment a mandatory requirement.
2. Protest is denied where source evaluation board reasonably determined, contrary to the recommendations of the technical evaluation team, that the technical advantages of the highest rated proposal did not reflect significant technical superiority relative to the agency's overall mission which outweighed the awardee's price advantage, given the awardee's acceptable level of technical competence available at the lower cost.
3. Protest that total technical evaluation point scores failed to reflect the actual differences in technical merit between proposals is denied where record demonstrates that technical evaluation was reasonable and consistent with the evaluation scheme set forth in the solicitation and point scores reflected the relative weights indicated in that scheme.
4. Protest that awardee did not price all of the required equipment in its proposal, thus rendering the cost/technical tradeoff analysis performed by the agency invalid is denied, where protester's allegation is specifically refuted and record does not support a conclusion that agency's price

evaluation was inconsistent with a reasonable interpretation of the RFP or was otherwise unreasonable.

DECISION

Contel Federal Systems protests the award of a contract to Rockwell International Corporation under request for proposals (RFP) No. DCA200-89-R-0061, issued by the Defense Communications Agency, Defense Commercial Communications Office (DCA-DECCO) for the acquisition of Low Density Radio Communications Link (LDRCL) equipment.

Contel contends that Rockwell failed to propose entirely commercial-off-the-shelf (COTS) equipment as allegedly required by the RFP, and that the selection of Rockwell for award lacked a reasonable basis in view of the legitimate technical and price differences between proposals. As to the latter complaint, Contel specifically challenges the agency's cost-technical tradeoff analysis, alleging that the Source Evaluation Board (SEB) unreasonably rejected the recommendation of the Technical Evaluation Team (TET) to award to Contel, and argues that the relatively small difference in technical point scores misrepresented the true difference in technical merit. In addition, Contel alleges that price proposals were not evaluated on a common basis in that Rockwell failed to price all of the equipment required by the RFP.

For the reasons set forth below, we agree with the agency that the RFP did not require that the equipment proposed be totally COTS in order for a proposal to be technically acceptable. We further find that the technical and price evaluations were reasonable and that there is nothing in the record which provides us with a legal basis to interfere with the selection. We therefore deny the protest.1/

BACKGROUND

The solicitation, issued on October 16, 1989, sought proposals for the purchase/lease, installation and testing of LDRCL equipment for various locations throughout the country. This acquisition is a part of the Federal Aviation Administration's (FAA), National Air Space System (NAS) modernization program, which includes a number of other pending and planned acquisitions. While the FAA will be the user of the equipment, DCA-DECCO was tasked with the contracting responsibility for this procurement.

1/ The majority of the record in this case was subject to a protective order. We have accordingly refrained from disclosing protected information in this decision.

The RFP contemplated the award of a fixed-price indefinite quantity requirements contract covering a base period and 9 option years. Estimated quantities were stated in the RFP for the equipment to be acquired by corresponding contract line items (CLINs).

The RFP included at Section M a two level evaluation scheme. The first level in relevant part was set forth as follows:

"AWARD CRITERIA

a. The following conditions must be met in order to be eligible for award:

(1) The offer must comply in all material respects with the requirements of law, regulation and conditions set forth in the solicitation.

(2) The proposal must meet all mandatory solicitation requirements.

(3) The offeror must be determined responsible according to the standards in FAR 9, Subpart 1.

(4) Offerors in the competitive range may be required to submit their proposed equipment for an Operational Capability Demonstration (OCD) (as detailed in Section L and Attachment J-5) using the hardware/software configuration described. The documented results of the OCD will be considered in the technical evaluation process and the technical evaluation scores will be adjusted accordingly.

b. Upon satisfaction of the above conditions, and criteria outlined in paragraphs (1) through (4), award shall be made to the responsible offeror whose offer conforming to the solicitation will be the most advantageous to the Government."

The next level consisted of the actual evaluation factors. They were divided into technical factors and price factors, with technical factors stated to be of more importance. Technical factors were divided into two major categories; Technical Equipment and Common or General Characteristics, with the first category to be significantly more important. The RFP provided that the price evaluation would be based on the total Discounted Life Cycle Cost (DLCC) for each proposal. In this regard, offerors were required to state unit and extended prices for the estimated equipment quantities identified by the CLINs.

The RFP further provided that the basis for the technical evaluation of proposed equipment would be the "degree of compliance" with the requirements of the equipment specifications and the statement of work (SOW). Both the equipment specifications and SOW were prepared by the FAA and incorporated into the RFP. The three major categories of equipment sought were (1) 1.8 GHz System, Low Density Radio Communication Links, (2) UHF System, Low Density Radio Communication Links, and (3) 23 GHz System, Low Density Radio Communication Links.

As indicated above, the RFP provided for the performance of an OCD by each technically acceptable offeror. The purpose of the OCD was to verify the ability of each offeror's proposed equipment to meet the requirements of the FAA's specification and SOW. The RFP notified offerors that the systems used in the OCD "shall be the commercial-off-the-shelf (COTS) equipment as described in the offeror's proposal." Further, the results of OCD's were to be used as part of the technical evaluation process and to determine that sufficient equipment was proposed to meet the SOW.

An acquisition plan was jointly prepared by representatives of DCA-DECCO and FAA prior to issuance of the RFP. Among other things, the plan indicated an intent to acquire COTS equipment. The acquisition plan was never released to prospective offerors. A written technical evaluation plan (TEP) was also prepared for this procurement. The TEP provided for creation of a TET composed of qualified individuals whose responsibility would be to evaluate and score the technical proposals in accordance with the requirements of the RFP. A scoring methodology was described in the TEP which essentially reflected the technical evaluation criteria set forth in the RFP including a provision that:

"The basis for the evaluation of the vendor's proposed equipment will be the degree of compliance with the requirements of the equipment specification and the statement of work."

Like the acquisition plan, the TEP was never disclosed or released to offerors. A third internal document prepared for the procurement was the LDRCL source-selection plan. This document was prepared by DCA-DECCO and approved by the FAA. Like the RFP and TEP, it provided that: "[t]he basis for evaluation of the offeror's proposed systems will be the degree of compliance with the specified requirements."

On January 4, 1990, Amendment 6 to the solicitation was issued. This amendment revised Section M of the RFP at paragraph 1(a)(2), to read as follows:

"The proposal must meet the solicitation requirements. During the technical evaluation process, partial credit will be assigned to any item of a proposal that does not fully conform with the requirements in order to rank the proposals received. Final award will be made on the basis of the most advantageous to the Government when considering cost and technical factors."

This paragraph was subsequently revised on two additional occasions by amendments to the RFP. Amendment 17 revised the language to read:

"The proposal must meet those solicitation requirements (if any) which are explicitly identified as mandatory requirements. During the technical evaluation process, partial credit will be assigned to any item of a proposal that does not fully conform with those requirements not explicitly identified as mandatory in order to rank the proposals received. Final award will be made on the basis of the most advantageous to the Government when considering cost and technical factors."

Amendment 19, issued on November 29, revised the paragraph to finally read:

"The proposal must address all solicitation requirements. During the technical evaluation process, partial credit will be assigned to any item of a proposal that does not fully conform with those requirements in order to rank the proposals received. Final award will be made on the basis of the most advantageous to the government when considering cost and technical factors."

Six firms submitted proposals by the RFP's closing date of February 8, 1990. Based upon an initial evaluation, DCA-DECCO established a competitive range consisting of Contel, Rockwell and AT&T Federal Systems. OCDs were subsequently conducted for each of those offerors in May. Following the completion of the OCDs, the TET reported the results of its evaluation to the SEB in writing on June 18. The report summarized the findings of the TET and listed the total technical evaluation scores for each of the offerors. Contel received the highest score. In addition, the TET report contained a recommendation that neither Rockwell nor AT&T were technically acceptable and should not be invited to submit a best and final offer (BAFO), and that award be made to Contel. A number of specific findings were set forth in support of TET's recommendation.

Based upon its review of the June TET report, the SEB concluded that further review and analysis by the TET was necessary. The SEB directed the TET to reconvene and rereview the proposals in order to confirm the scoring as well as to document for each offeror all evaluated strengths and weaknesses resulting in scores deviating from the average score by 3 or more points. The TET was also directed not to provide any further selection recommendations. On August 22, DCA-DECCO forwarded Discussion Items (DI) to the three remaining offerors based upon the OCD results. The TET was instructed by the SEB to update or rescore technical proposals based upon offeror responses to the DI's.

On November 15, the TET submitted its second report to the SEB. This report listed the revised total scores for each offeror and Contel received the highest. In addition, the report summarized the TET's findings and again recommended that Rockwell and AT&T not be further considered and that award be made to Contel. This report also included minority views of certain members of the TET relative to some of the evaluation results. Following its review of this report, the SEB directed the current TET chairman, with input from a consultant who had been assisting the TET, to undertake a mission impact analysis of the TET's findings. The results of this analysis were provided to the SEB in February 1991 and formed part of the documentation evaluated by the SEB in reaching its award recommendation.

BAFO's were requested from Contel, Rockwell and AT&T on January 28 and received by the agency on February 11. Rockwell proposed the lowest DLCC of \$99,545,460, while Contel and AT&T proposed DLCC's which were substantially higher. On March 7, the SEB recommended to the Source Selection Official (SSO) that Rockwell be selected for award. This recommendation was based upon the SEB's consideration of the TET report, the subsequent mission impact analysis prepared by the TET

chairman, the price evaluation results, and the assessment of the SEB members. It concluded that despite the recommendations of the TET report, there existed no shortcoming in any of the three proposals which rendered it unsuitable for use in the FAA system. It further concluded that all of the proposals were technically acceptable and that their relative merits were accurately represented by the final technical scores. The SEB summarized the basis for its recommendation by stating that "a 10% improvement in the technical approach [as between Contel and Rockwell] is not worth an 80% increase in cost." The SSO accepted the recommendation of the SEB and a contract was awarded to Rockwell on April 3.

PROTEST ALLEGATIONS

Contel protested to this Office on April 11, 1991, contending that Rockwell should not have been awarded the contract because it proposed non-COTS equipment in violation of mandatory requirements of the RFP. Specifically, Contel alleged that the multiplexing equipment proposed by Rockwell in response to paragraph 3.5.7 of the RFP specifications was not COTS. Contel argued in essence that Rockwell proposed a non-COTS configuration of components in response to the multiplex requirement, which configuration had no commercial sales history.

Following the parties' receipt of the agency's administrative report on May 17, Contel raised additional arguments in support of its basic contention that the award to Rockwell was improper because of that firm's alleged failure to propose COTS equipment. Contel alleged that to the extent that DCA-DECCO did not intend COTS to be mandatory, it had been misled into believing otherwise. Also, Contel argued that the SEB's award recommendation was arbitrary and unreasonable in view of the TET reports which made contrary findings, and in view of Rockwell's alleged failure to have priced all of the required equipment in its proposal. Further, Contel asserted that the 10-percent difference in technical evaluation point scores between Contel and Rockwell did not reflect the true superiority of Contel's solution, thus making the SEB's cost/technical tradeoff analysis invalid.

Contel's various allegations were clarified and refined to some extent over the course of the protest proceedings, and at the final prehearing conference were reduced to the following list of issues:

- "1. Did the RFP mandate COTS equipment?
2. Was Contel misled into believing that COTS equipment was mandatory?

3. Did Rockwell propose non-COTS equipment?
4. Was the SEB's recommendation to award to Rockwell arbitrary and unreasonable in view of the TET reports?
5. Was the SEB's cost-technical tradeoff analysis invalid because the 10-percent difference in total technical evaluation point scores did not represent the true difference in technical merit between Contel and Rockwell?
6. Did Rockwell fail to price all of the required equipment in its proposal?"

A hearing was held in this case during which certain of these issues were addressed by the parties. Our conclusions relating to these issues are based on the testimony at the hearing as well as on the written submission of the parties.

THE COTS REQUIREMENT

We first address Contel's position that COTS compliance was a mandatory requirement of the solicitation. Contel maintains that COTS equipment was an overriding requirement of the acquisition and was made mandatory by explicit language of the RFP. In this regard, Contel points to various provisions of the SOW and specifications, as set forth below, which it argues indicate an overall requirement for COTS equipment and the characteristics needed for the multiplexor.

"SOW paragraph 3.2 Equipment

Each system furnished shall include all equipment, equipment options, supplies, documentation, special equipment and ancillary equipment of the types and quantities that meet or exceed the requirements of LDRCL equipment specification FAA-E-2853.

Unless specifically approved by the government, all hardware, software, and firmware, provided as part of this contract shall be commercial off-the-shelf products."

"Specification paragraph 1.1 Scope

This specification sets forth the requirements for Low Density Radio Communication Links (LDRCL) microwave systems that are assembled

from commercially available production off-the-shelf equipment."

"Specification paragraph 3.2.1 General

All equipment provided by the contractor shall be commercially available off-the-shelf equipment that shall be in accordance with the requirements specified."

"Specification 3.5.7 Multiplexing Equipment

The system shall be capable of multiplexing up to eight DS-1 channels, using digital multiplexing techniques. Channel capacity requirements provided for each system ordered shall be as furnished by the government. The multiplexing system supplied shall be complete with channel-banks and equipment required at both terminal ends to interface with four wire VF and E&M analog circuits or DS-0 and DS-1 level data streams. . . ."

"3.5.7.1 Redundant Configuration

The digital multiplexing system shall be provided as a fully redundant configuration at the channel-bank level with hot standby modems and redundant channel-bank components such that no failure can interrupt service."

Contel asserts that it consistently understood that COTS equipment was mandatory and that this understanding formed the basis for its proposal. In particular, according to Contel's proposal manager who testified at the hearing, locating a fully COTS multiplexor in compliance with the redundancy requirements of paragraph 3.5.7.1 of the RFP proved to be the most costly and time-consuming aspect of Contel's proposal effort. Hearing Transcript (Tr.) at 31-33. According to this individual, the COTS multiplexor which it ultimately located accounted for approximately one-half of Contel's total DLCC. Tr. at 34.

DCA-DECCO responds that while the acquisition of COTS equipment was certainly desirable, it was not a mandatory requirement. According to the agency, COTS was no different than the other requirements listed in the RFP's SOW and specifications which were each to be evaluated based upon offerors' degree of compliance, and not on a pass/fail basis. The agency rests its position in this respect on paragraph 1(a) of Section M of the RFP, as amended. At the hearing, the contracting officer explained that, as originally issued,

the RFP was not intended to make COTS a mandatory requirement. Tr. at 326. Nonetheless, according to the contracting officer, subsequent concern arose about potential offeror confusion and, therefore, Amendment 6 was issued in order to clarify that no requirements stated in the RFP, including COTS, were mandatory, but that they would each be evaluated in terms of degree of compliance. Tr. at 313-314. Because in the contracting officer's view, a sense of uncertainty appeared to continue as the procurement progressed, the RFP was amended on two additional occasions in an effort to further clarify that there were no mandatory requirements. Tr. at 314-315. The contracting officer further explained that while it was originally the intent of the agency to mandate COTS equipment, as indicated by the acquisition plan, this intent changed just prior to issuance of the solicitation. Tr. at 325-326.

Where, as here, a dispute exists as to the actual meaning of an RFP provision, we will read the RFP as a whole and in a manner giving effect to all of its provisions in determining which interpretation is reasonable. National Projects, Inc., 69 Comp. Gen. 229 (1990), 90-1 CPD ¶ 150. Applying this standard here, we find DCA-DECCO's position regarding the COTS requirement to be reasonable. We believe that the RFP, considered as a whole, supports the agency's position that the COTS requirement was to be evaluated by degree of compliance and not upon a mandatory pass/fail basis. We further find that this should have been reasonably apparent to Contel and that it was therefore not misled by the agency.

Contel's view that provisions of the RFP's SOW and specifications expressly made COTS compliance a mandatory requirement is inconsistent with the evaluation criteria set forth in Section M of the RFP. While, as originally written, the evaluation scheme did state that the proposal must meet "all mandatory solicitation requirements," the pertinent evaluation criteria also expressly notified offerors that technical proposals would be evaluated based upon degree of compliance with the equipment specifications and the SOW. The basic requirement for COTS equipment was included in the SOW and specification in the same manner as the other technical requirements which Contel itself concedes were not mandatory given the language of Section M. In our view, it is those requirements, in total, which are referenced in the evaluation criteria for purposes of determining degree of compliance. To read only the COTS provisions as mandatory is inconsistent with the evaluation criteria both as originally announced and

as further amended.^{2/} It is also inconsistent with Contel's own view that the RFP requirements and SOW are not mandatory. Tr. at 96. Such a reading, therefore, in our view is unreasonable.

Contel also argues that there is a distinction between technical requirements and "terms and conditions" of the RFP. According to Contel, mandatory COTS compliance was a "condition" of the RFP and therefore was unaffected by the evaluation criteria as stated in Section M. We can find no support in the record for this position. As indicated above, the plain language of the RFP simply does not distinguish COTS from other requirements included in the SOW or specifications. In addition, our view of the RFP is reinforced by the fact that COTS compliance was one of the requirements actually scored by the TET in terms of degree of compliance. It is apparent, therefore, that DCA-DECCO did not intend to treat COTS compliance any differently than the other requirements listed in the solicitation.

In view of the RFP provisions read in their entirety, we do not believe that COTS compliance was a mandatory requirement. Similarly, we do not think that Contel should have been misled into believing otherwise, or that Contel reasonably understood COTS to be mandatory. While the RFP, in our view, is not a model of clarity, the fact is that the evaluation scheme set forth at Section M, from day one, reasonably put offerors on notice that all requirements would be evaluated by degree of compliance. A contrary conclusion by Contel, or one which distinguished COTS from other requirements, could not have reasonably been reached.

Under the circumstances, we find that the RFP authorized DCA-DECCO to accept non-COTS equipment. While under the evaluation criteria, an offering of such equipment would run the risk of relatively lower scoring, it was nonetheless not subject to outright rejection as argued by Contel. Accordingly, Contel's contention that Rockwell was not eligible for

^{2/} This was made clear by the amendment to the award criteria portion of Section M which further clarified the language by stating that all solicitation requirements must be adhered to by the offerors and that, except for the requirements specifically identified as "mandatory," partial credit will be awarded for less than full conformance. To the extent that Contel views these amendments as unclear or inconsistent with other provisions of the RFP, it was required to make its objections prior to the due date for submission of BAFO's. See Servicio Int'l de Proteccion Baker, S.A., B-241670, Jan. 22, 1991, 91-1 CPD ¶ 64.

award because it proposed non-COTS multiplexing equipment (as well as certain other equipment items) has no basis.

Since we have decided that COTS was not a mandatory solicitation requirement, we need not decide whether all of the equipment offered by Rockwell was 100-percent COTS. In any event, however, the record establishes that Rockwell proposed essentially all COTS equipment from a variety of sources. Tr. at 336-364. For example, with respect to the requirement for a redundant multiplexor, Rockwell proposed a combination of equipment integrated to form the system required. While as Contel alleges, this particular system may have very limited or no commercial sales history, we are satisfied on the record that the components are each COTS. To the extent that such a system was not considered to be completely compliant with the COTS requirement, it was reflected in Rockwell's relative technical score. For example, the TET report specifically indicated that Rockwell was downgraded because its multiplexor did not in the evaluator's view meet the COTS specification.^{3/}

SOURCE SELECTION DECISION

Contel next argues that the decision to select Rockwell for award was improper because it was based upon a recommendation of the SEB which differed from the findings and recommendations of the TET. Although the TET reported numerous deficiencies in Rockwell's proposal and recommended award to Contel, the SEB declined to follow that recommendation. According to Contel, the SEB lacked a reasonable basis for its action. Also, Contel maintains that the cost/technical tradeoff analysis performed by the SEB was invalid because the 10 percent advantage held by Contel in total technical evaluation point scores failed to accurately reflect the technical superiority of its proposal over Rockwell's. Finally, Contel argues that the SEB departed from the announced evaluation criteria in recommending award to Rockwell.

After concluding its evaluation of technical proposals within the competitive range, and of each offeror's performance during the OCD's, the TET submitted a written report to the SEB. The report included the total technical evaluation scores for each offeror as well as a breakdown of those scores by group, area, category and item. The individual scores assigned by each member of the TET, except the chairman, who did not score proposals, were also included with the report. Finally, the report included a narrative discussion of the

^{3/} The agency is currently of the view that Rockwell proposed and will deliver a 100-percent COTS solution.

TET's evaluation results and recommendations, including a recommendation that Contel be selected for award. In general support of this award recommendation, the report stated that "the Contel offering was MOST compliant with specification FAA-E-2853." The report went on to note, however, that "none of the vendor offerings were 100 percent compliant." The report thereafter listed a number of requirements for which Rockwell was found noncompliant, as well as certain items of equipment proposed by Rockwell which were considered functionally unacceptable.^{4/} In view of its findings, the TET further recommended that neither Rockwell nor AT&T be invited to submit a BAFO.

The SEB did not accept the findings and recommendations of this report. Rather, the SEB directed the TET to reconvene and review its findings. The SEB further instructed the TET to document the evaluated strengths and weaknesses of each proposal, particularly in those areas where one or more individual scores deviated from the average by three or more points. Also, the TET was instructed to reevaluate proposals as appropriate in view of any DI's resulting from the OCD's.

The chairperson of the SEB, Mrs. Joan Gariazzo, testified at the hearing.^{5/} She explained that the decision to reconvene the TET was based upon the SEB's conclusion that the TET had exceeded the bounds of its collective expertise and authority in making the findings and recommendations included in the report. According to Mrs. Gariazzo, the report was unusual in the respect that while the total scores for each of the offerors were relatively close, the TET had recommended that two offerors be excluded from the competition. Tr. at 213. In addition, she was concerned that the report identified only the weaknesses found with the Rockwell and AT&T proposals and only the strengths found with the Contel proposal. Id. Mrs. Gariazzo met with the TET members and further concluded that they had not in fact completed the technical evaluation because DI's resulting from the OCDs had not been processed. Tr. at 214. For these reasons, and following detailed discussions among its members, the SEB decided to reconvene the TET.

^{4/} Those items found functionally unacceptable were the 1.8 GHz Digital Radio; Alarm Monitoring System; and 23 GHz Radio proposed by Rockwell.

^{5/} Mrs. Gariazzo is also the current program manager for this procurement as well as for a number of related acquisitions.

Approximately 5 months after the TET was directed to reconvene, a second TET report was submitted to the SEB.^{6/} This report again included a recommendation that Rockwell and AT&T be excluded from the competition and that award be made to Contel. The total evaluation point scores indicated an increase for Contel and a decrease for Rockwell. Like the prior TET report, this report included a breakdown of the scores for each offeror as well as the scores assigned by each member of the TET. This report, however, also included a discussion of the evaluated strengths and weaknesses for each offeror and the resulting impact on the FAA's mission as projected by the TET. A total of 41 "weaknesses" were identified with respect to the Rockwell proposal.

Additionally, the TET repeated its conclusion that three major equipment items proposed by Rockwell were functionally unacceptable. Further, the report warned that "substantial impact on the FAA mission could be expected should these systems be deployed."

The SEB had immediate concerns with the second TET report as well. According to Mrs. Gariazzo's testimony, the TET had overstated the weaknesses in Rockwell's proposal and correspondingly understated Contel's weaknesses. Tr. at 216, 237-238. Additionally, it was the view of the SEB that the TET members had again exceeded their authority because while tasked to judge offerors' compliance with the RFP requirements, they went on to make mission impact statements or determinations relative to the overall FAA NAS. This is something for which, according to Mrs. Gariazzo, the TET members simply lacked the requisite knowledge and expertise. Tr. at 217-218. The SEB asked the TET chairman to conduct an analysis of the TET's mission impact statements in order to insure a fair and competent evaluation of the offerors.^{7/} The

^{6/} At this time, the TET was chaired by an individual who was appointed to that position after the former chairman took another job. The new chair had previously been providing oversight and guidance to the TET, having had substantial prior experience with the LDRCL and other related projects for the NAS.

^{7/} The TET chairman was also a member of the SEB. He was assisted in the mission impact analysis by a retired FAA engineer who had extensive experience in telecommunications and had instituted the LDRCL program while with the FAA. This effort actually began in July at the request of the SEB.

results of this analysis were provided to the SEB in writing and through oral discussion.^{8/}

The SEB met for several days in March, analyzing the results of the technical and price evaluations. The SEB examined the TET report and the mission impact analysis. Also, the offerors' proposals were available to members of the SEB. During these deliberations, the SEB concentrated on the strengths and weaknesses identified by the TET report for each offeror. These were examined, item by item, and with consideration given to the mission impact analysis, the conclusion was reached that there were no weaknesses in either the Rockwell or AT&T proposals which made them unacceptable. The SEB then conducted a detailed comparison of the technical scores and price evaluations for each of the offerors in order to ascertain those areas most responsible for the technical and cost differences.^{9/} In summary, the SEB determined that the principal areas where Contel scored relatively higher in the technical evaluation were for radio characteristics, the monitoring system capability and for digital multiplexing redundancy, and that Contel proposed higher prices for CLINs encompassing those areas. Having accounted for the technical and price differences, the SEB then considered whether the benefits to be acquired from the relatively superior Contel technical solution justified its higher price. Based upon its members' judgment that Rockwell's substantially lower cost solution was in fact fully suitable relative to FAA's needs, and that Contel's solution actually exceeded those needs, the SEB determined that Contel's technical superiority was not worth the extra cost. Therefore, it was determined by the SEB to recommend Rockwell for award.

Together with the SEB's recommendation, the SSO was presented with the charts and graphs prepared by the SEB in conducting its analysis and comparison of offerors, as well as the final TET report and mission impact analysis. Based upon all of this information, the SSO accepted the recommendation of the SEB and awarded the contract to Rockwell.

^{8/} Contel argues that the mission impact analysis failed to address all of the 41 "weaknesses" identified by the TET. However, this argument was refuted by DCA-DECCO at the hearing, with the author explaining that while his written analysis may not have covered each weakness, all were addressed by himself or another TET member at least through discussion. Tr. at 282-283.

^{9/} This comparison was reduced to writing in the form of charts and graphs depicting the major technical and price differences between offerors. These documents are part of the record.

In reviewing an agency's selection decision, we will examine the underlying evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria. See Cygna Project Mgmt., B-236839, Jan. 5, 1990, 90-1 CPD ¶ 21; Litton Sys., Inc.; Varian Assocs., Inc., B-229921 et al., May 10, 1988, 88-1 CPD ¶ 448. It is important to recognize in a case like this one that neither the selection official nor upper-level evaluators, such as an SEB, are bound by the recommendation of lower-level evaluators, such as a TET.^{10/} Wyle Laboratories, Inc.; Latecoere Int'l, Inc., 69 Comp. Gen. 648 (1990), 90-2 CPD ¶ 107. It is the ultimate evaluation by the agency which is governed by the tests of rationality and consistency with the RFP evaluation criteria, not the assessment by working-level evaluation boards. Bank St. College of Ed., 63 Comp. Gen. 292 (1984), 84-1 CPD ¶ 607.

On the record before us, we have no legal basis upon which to question the SEB's evaluation, despite the contrary views reported by the TET. We believe that the record, particularly as amplified by Mrs. Gariazzo's testimony, substantiates that the SEB's evaluation was both reasonable and in accordance with the announced evaluation criteria. The SEB did not reject the findings and recommendations of the TET out of hand. To the contrary, the record shows that the SEB carefully scrutinized the TET reports and simply came to a different conclusion based upon what we believe was an informed and reasoned analysis of the evaluation results viewed in the context of the overall FAA mission. As explained by Mrs. Gariazzo, this was an area in which the members of the SEB, but not the TET, were competent, each having extensive familiarity with the overall system within which the LDRCL would operate. For example, the TET assigned an average score of only 1.8 to Rockwell's response to the requirement for a battery charger (RFP specification 3.8.2) for the 1.8 Ghz system, finding it seriously deficient, and indicated that the FAA mission would be adversely impacted by installation of the proposed Rockwell equipment in the air traffic control centers. Based upon the mission impact analysis, however, the SEB determined that Rockwell's response was not seriously deficient and would not adversely impact the FAA's mission since--contrary to the TET's understanding--the battery chargers were not to be installed in air traffic control centers, but were to be used at remote sites without uninterruptable power sources.

^{10/} Indeed, the technical evaluation plan here, by its own terms, reserved to the SEB responsibility to assess the suitability of proposals and eliminate offerors from consideration.

Similarly, we disagree with Contel's argument that the SEB's consideration of "mission impact" constituted a departure from the RFP evaluation criteria. The RFP expressly provided that award would be made on the basis of the most advantageous proposal considering cost and technical factors. The agency, through the SEB and SSO, had to determine the relative technical advantages to each proposal balanced against their associated costs. In making this tradeoff, agencies recognize that whether a given technical point spread indicates that one proposal is significantly superior to another depends upon the facts and circumstances of each procurement. PRC Kentron, Inc., B-230212, June 7, 1988, 88-1 CPD ¶ 537. In our view, the consideration of "mission impact," i.e., the actual significance of offerors' strengths and weaknesses, was proper and logically flowed from the evaluation criteria stated in the RFP. For example, a major technical evaluation factor was the degree of compliance with the performance/functional requirements of the SOW and specifications. Consideration of "mission impact" represented an assessment of the significance to the FAA's operations of offerors' relative compliance with the performance/functional requirements of the RFP. Consideration of the inherent impact upon the agency's operations of the relative compliance of an offeror's technical approach was, in our view, a proper exercise of the agency's discretion and judgment.

Further, we are not persuaded that the 10 percent difference in technical point scores between Contel and Rockwell understated the actual difference in Contel's alleged technical superiority.^{11/} According to Contel the 10 percent difference was misleading because it failed to indicate that major equipment items proposed by Rockwell were evaluated to be between 17 and 82 percent noncompliant by the TET. Contel argues that the 10 percent difference does not reflect these underlying findings and that therefore the tradeoff analysis was flawed. We disagree. Having carefully examined the record, including the TET reports, SEB minutes and relevant hearing testimony, and in view of the subjective nature of the scoring methodology applied, we cannot agree that the relative total evaluation scores misrepresented the actual difference in technical merit. The scores assigned by the TET were consistent with the weights set forth in the evaluation

^{11/} In any event, the agency concedes that Contel proposed a technically superior system. It also viewed Rockwell's much less expensive system as perfectly acceptable relative to the requirements of the RFP and FAA's needs. This is the type of judgment and discretion properly vested in the selection officials. See AMG Assocs., Inc. B-220565, Dec. 16, 1985, 85-2 CPD ¶ 673.

criteria of the RFP relative to the major equipment items and other identified factors. For instance, while Rockwell's proposed battery charger may have been considered 62-percent noncompliant as alleged, the TET's conclusion in this respect was translated into an average score of 1.8 points for that item. In view of the weighing given this item in the total evaluation scheme, however, the relatively low score assigned did not appreciably impact the total score received by Rockwell. This was in accordance with the RFP. At any rate, as discussed, the SEB properly assessed the mission impact relative to this item. The record shows that the SEB was privy to all of the TET's evaluation results including the individual equipment scores. Under the circumstances, the SEB had a sufficient basis to conduct its cost/technical tradeoff analysis. In our view, the record demonstrates that DCA-DECCO's evaluation of proposals was reasonable and in accordance with the technical evaluation criteria of the RFP.

EQUIPMENT PRICING

Contel argues that Rockwell failed to price all of the equipment required to be priced in its proposal. While this argument evolved over the course of the protest proceedings, putting into issue a number of CLINs, we understand it to deal primarily with the multiplexor equipment. In order, to meaningfully address Contel's argument, we initially set out those relevant CLINs:

| <u>ITEM</u> | <u>EST. QUANTITY</u> |
|--|----------------------|
| 2BM 1.8 Ghz narrowband digital microwave link, with capacity of one DS-1 (PS 3.3.13) | 50 ea. |
| 2BN Digital multiplexing system for DSO Interface for one DS-1 (PS 3.5.7) | 100 ea. |
| 2BQ 1.8 Ghz digital microwave link, with capacity of 4 DS-1 (PS 3.2.13) | 20 ea. |
| 2BR Digital multiplexing system for DSO Interface for 4 DS-1 (PS 3.5.7) | 46 ea. |
| 2BT 1.8 Ghz broadband digital microwave link, with capacity of 8 DS-1 (PS 3.5.7) | 5 ea. |
| 2BU Digital multiplexing system for DSO Interface for 8 DS-1 (PS 3.5.7) | 12 ea. |
| 3AA 23 Ghz radio terminal pair w/digital multiplexing capacity of one DS-1 channel | 15 ea. |

| | | |
|-----|---|---------|
| 3AB | 23 Ghz radio terminal pair w/digital multiplexing capacity of four DS-1 channel | 10 ea. |
| 3AC | 23 Ghz radio terminal pair w/digital multiplexing capacity of 8 DS-1 channels | 5 ea. |
| 3AG | Digital multiplexing system for DSO Interface of one DS-1 | 30 ea. |
| 3AH | Channel-banks for VF level interface of 24 channels | 203 ea. |
| 3AJ | Digital multiplexing system for DSO interface for 4 DS-1 | 21 ea. |
| 3AL | Digital multiplexing system for DSO interface of 8 DS-1 | 11 ea. |

Contel first contends that Rockwell failed to price all of the required equipment under CLINs 2BN, 2BR, 2BU, 3AG, 3AJ and 3AL, referred to by Contel as the digital multiplex equipment. Rockwell did not separately price these items, choosing instead to include their prices in the pricing for CLINs 2BM, 2BQ, 2BT, 3AA, 3AB and 3AC, referred to by Contel as the digital radios. Because the RFP estimated a larger quantity of digital multiplexors than radios, Contel maintains that Rockwell could not have priced all of the former equipment.12/

DCA-DECCO responds that Rockwell proposed and priced the required number of radio multiplexors because it actually offered two multiplexors for each radio system. The agency explains that the radio CLINs call for systems made up of a pair of radios for each link. The agency further explains that Rockwell proposed a radio multiplexor for each radio and that therefore, Rockwell proposed and priced 846 radio multiplexors.13/

Contel next contends that Rockwell did not price all of the multiplexor equipment necessary to meet the redundancy requirements of the RFP. As we indicated earlier, those

12/ Considering both base and option quantities, the RFP estimated a total of 1,030 digital multiplexors and only 423 radios under the clins identified by Contel.

13/ The RFP also called for 95 repeater stations for which Rockwell proposed 190 radios and 190 radio multiplexors. According to DCA-DECCO, this brought the total number of radio multiplexors proposed by Rockwell to 1,036, which is even more than the number required.

requirements are stated in paragraph 3.5.7.1 of the RFP specifications as follows:

"The digital multiplexing system shall be provided as a fully redundant configuration at the channel-bank level with hot standby modems and redundant channel-bank components such that no failure can interrupt service."

Contel essentially maintains that this provision required offerors to include a fully functioning back-up channel bank for every primary channel bank proposed. Since the RFP specified configurations of 1, 4 and 8 DS-1 systems, for which a corresponding number of primary channel banks are required, Contel argues that an equal number (or 1:N redundancy) back-up channel banks was required for each system. According to Contel, Rockwell's proposed multiplexor systems did not incorporate such complete redundancy, resulting in that firm's failure to price all of the required multiplexor equipment.

Rockwell's proposed solution to the multiplexor redundancy requirement basically consists of the use of a single spare channel bank and a switching assembly which, in the event of a failure of any primary channel bank, will activate the spare unit. The use of the switching solution obviated the need for Rockwell to include a spare channel bank for each primary unit in each of the 1, 4 or 8 DS-1 systems. DCA-DECCO responds that the Rockwell solution is in full compliance with paragraph 3.5.7.1. The agency explains that it never intended to require a duplicate spare channel bank for every primary channel bank in service (i.e., 1:N redundancy) and that such would be beyond its minimum needs. Further, according to the agency, the Rockwell solution, as successfully demonstrated at the OCD, meets the functional purpose of the redundancy requirement which is to assure that no single failure will disrupt service in more than one DS-0 channel.^{14/}

Contel further contends that Rockwell failed to price all of the required channel bank multiplexors. According to Contel, this equipment is called for under the CLINs entitled "digital

^{14/} DCA-DECCO maintains that amendment 4 confirmed this functional purpose by including a response to a question concerning the redundancy requirement in paragraph 3.5.7.1 which stated: "A single failure in the system should not cause disruption of service to more than one individual VF/DS-0 channel."

multiplexing system"^{15/} as well as under the CLINs entitled "channel banks for VF level interface."^{16/} Contel maintains that the "digital multiplexing system" CLINs required channel bank multiplexors separate from and in addition to radio multiplexors which were integral to the required radios. Contel asserts that because Rockwell proposed only radio multiplexors in response to these CLINs, it failed to price what was actually required. Additionally, Contel maintains that the "channel banks for VF level interface" CLINs required offerors to price two channel banks for every unit of the estimated quantity. Because Rockwell priced only one channel bank per unit, Contel asserts that not all of the required equipment was priced by Rockwell.^{17/}

DCA-DECCO responds that the "digital multiplexing system" CLINs did not call for channel bank equipment, but only for radio multiplexors, and that the "channel banks for VF level interface" CLINs called for one channel bank per unit. According to the agency, therefore Rockwell's price proposal was in complete compliance with the RFP requirements.

We agree with the agency's interpretation of the solicitation. In short, we find Contel's interpretation unreasonable because, as pointed out by DCA-DECCO and Rockwell, it conflicts with the structure of the RFP pricing schedule and results in the pricing of excess equipment. To begin with, unlike the CLINs which all parties admit call for channel bank multiplexors, the "digital multiplexing system" CLINs do not mention "channel banks." In addition, the RFP is structured such that these CLINs directly follow the radio CLINs and include quantity estimates which correspond with those radio quantities. This, in our view, was a further indication that these CLINs encompassed the radio multiplexors and not some additional amount of channel banks. Finally, in view of the estimated number of radios to be ordered under the contract, and the fact that the "channel banks for VF level interface" CLINs alone could accommodate a sufficient number of channel banks for those radios (at one channel bank per unit) interpreting the "digital multiplexing system" CLINs to call for additional channel banks would result in substantial excess equipment.

^{15/} Clins 2BN, 2BR, 2BU, 3AG, 3AJ, and 3AL.

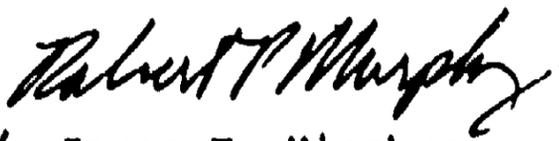
^{16/} Clins 2BP, and 3AH.

^{17/} Similarly, Contel alleges that Rockwell did not propose a sufficient amount of digital channel cards for use with the channel bank equipment.

We will review an agency's price proposal evaluation to assure that it is reasonably based. See Signal Corp., B-241849, Feb. 26, 1991, 91-1 CPD ¶ 218. Here, after having carefully examined the record, we cannot agree with Contel's central argument that Rockwell failed to propose and price all of the equipment required by the solicitation. DCA-DECCO and Rockwell have satisfactorily explained that there is no shortfall in the quantity of multiplexor equipment proposed. Contel was simply unaware that Rockwell proposed two multiplexors for each radio system. Additionally, the record shows that DCA-DECCO finds Rockwell's proposed multiplexor equipment fully compliant with its redundancy requirement. Contel has not shown the agency's interpretation of this requirement to be either unreasonable or inconsistent with the RFP as a whole. Further, we do not believe that DCA-DECCO should have reasonably been on notice of Contel's apparent differing interpretation. The RFP pricing schedule merely required that offerors include the prices of their equipment in the blanks provided--there was no provision for a detailed pricing proposal with explanations of the pricing elements--and, as indicated above, the agency considered Contel's higher evaluated total price to be a reflection of its technically superior solution and not the result of having proposed more equipment than other offerors. In sum, on the record before us, we cannot find that DCA-DECCO unreasonably evaluated Rockwell's pricing.

Contel has made a number of other related contentions during the course of this protest having to do with the manner in which Rockwell priced its proposal. Although these contentions may not be specifically addressed in this decision, each was carefully considered by our Office and found either to be insignificant in view of our other findings, or invalid based upon the record as a whole.

The protest is denied.


for James F. Hinchman
General Counsel