



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Engineered Systems, Inc.

File: B-273027

Date: November 15, 1996

David B. Gilfillan for the protester.

Kenneth A. Lechter, Esq., and Jerry A. Walz, Esq., Department of Commerce, for the agency.

Ralph O. White, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Contention that agency unreasonably evaluated protester's technical proposal, and improperly concluded that the awardee's significantly higher-rated, slightly higher-priced proposal offered the best value to the government, is denied where the record shows that the agency evaluation was reasonable and in accordance with the stated evaluation criteria.

DECISION

Engineered Systems, Inc. protests the award of a contract to Independent Technology, Inc. (INTEC) pursuant to request for proposals (RFP) No. 52-DGNW-6-00010, issued by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), for maintenance and logistics support of the NOAA Weather Radio Transmitter Network. Engineered Systems argues that the agency improperly evaluated its proposal under every evaluation criterion and unreasonably selected INTEC's higher-rated, higher-priced proposal.

We deny the protest.

BACKGROUND

NOAA issued the RFP on October 10, 1995, seeking offers to maintain and support the Weather Radio Transmitter Network, which provides critical weather warnings to the nation. The RFP generally anticipated award of a fixed-price requirements contract, although some elements of the contract were to be priced on a time-and-materials basis. The RFP advised that proposals would be evaluated using four evaluation factors--personnel, technical approach, past performance, and corporate experience--and that the personnel and technical approach evaluation factors would be significantly more important than the past performance and corporate

experience factors. One of these factors, technical approach, included four subfactors: field maintenance support, integrated logistics support, test procedures plan, and property control plan. The RFP further advised that the agency would select the proposal offering the greatest value to the government, considering both technical expertise and price.

Four offerors responded to the RFP. After each of the proposals was evaluated by a five-member technical evaluation committee, two were found technically unacceptable, leaving only the proposals submitted by Engineered Systems and INTEC in the competitive range. After holding discussions with both offerors, and requesting best and final offers (BAFO), the evaluation committee again reviewed the proposals. The record shows that each evaluator assigned a color rating--blue (excellent), green (acceptable), yellow (marginal), and red (unacceptable)--for each factor and subfactor in the evaluation scheme. At the conclusion of the evaluation, Engineered Systems's proposal was rated green (acceptable) under every factor and subfactor with the exception of the corporate experience factor and the integrated logistics support subfactor, which were rated yellow (marginal). Thus, Engineered Systems's proposal received an overall rating of green. INTEC's proposal was rated blue (excellent) under every evaluation factor and subfactor, and received an overall rating of blue.¹

Given the evaluation committee's conclusion that the INTEC proposal significantly surpassed the Engineered Systems's proposal under every evaluation factor and subfactor, and given their relative prices of \$7.4 million (Engineered Systems) and \$7.8 million (INTEC), the source selection official concluded that the proposal of INTEC was worth its slightly higher price. On July 30, the agency awarded the contract to INTEC and this protest followed.

DISCUSSION

Engineered Systems argues, in essence, that under every evaluation criterion both offers should have been rated acceptable. Thus, the protester argues that the agency should have concluded that the proposals were technically equal and should have declined to pay a premium for INTEC's services.

¹The summary of the agency evaluation materials set forth above averages the rating assessments assigned by the five evaluators for each factor and subfactor. The agency, on the other hand, made its decision using a matrix showing each evaluator's assessment under every category and prepared only one overall color rating for the entire proposal. Under our summary, if three evaluators assigned a green rating, and two evaluators assigned a blue rating, we report the rating as green.

In considering protests against an agency's evaluation of proposals, we will examine the record to determine whether the evaluation was reasonable and consistent with the evaluation criteria. Atmospheric Research Sys., Inc., B-240187, Oct. 26, 1990, 90-2 CPD ¶ 338. Here, we have considered both Engineered Systems's and INTEC's proposals, the evaluation materials, the agency's responses to each of the protester's arguments, and information discussed in a conference call among the protester, our Office, and representatives of the agency, including the contracting officer and the chairman of the technical evaluation committee. As a result of our review, we find no basis for concluding that the evaluation was unreasonable or not in accordance with the stated evaluation criteria. To illustrate our conclusion, we will discuss in detail the evaluation results under the two most important evaluation factors--personnel and technical approach.

Personnel

Under the personnel evaluation factor, Engineered Systems's proposal received a green (acceptable) rating, while INTEC's proposal was rated blue (excellent). In general, Engineered Systems challenges any conclusion that INTEC's personnel should receive a higher rating than Engineered Systems's personnel. Specifically, Engineered Systems argues that the agency: wrongly concluded that its personnel might not be trained in time to perform the contract; overlooked the experience of its field technicians, especially those with Federal Communications Commission (FCC) licenses or other commercial certifications; and unreasonably gave INTEC's proposal an excellent rating in the personnel area when, according to Engineered Systems, INTEC's personnel had no experience with some of the newest transmitters covered by this contract.²

In its initial protest filing, Engineered Systems complains that NOAA representatives stated during the debriefing that its personnel could not be trained within the 6-week phase-in period. The agency explains that while it expressed a concern about training risk, this concern was secondary to the broader concern that the protester's proposed field technicians did not show high levels of experience with the kind of equipment covered by this contract. With respect to the training issue, the agency explains that the protester's personnel had the technical background to allow them to master the specifics of repairing the weather radio transmitters, but lacked direct experience with the transmitters. Thus, the evaluators expressed a

²This contract covers two types of transmitters: transmitters built by Scientific Radio Systems, Inc. (SRS), which use vacuum tube technology and were installed in the 1970s; and transmitters built by Energy-Onix, which use solid-state technology and were installed in early 1996. The contract requires field maintenance of 121 SRS transmitters and 6 Energy-Onix transmitters, and logistics support for an additional 194 SRS transmitters and 9 Energy-Onix transmitters.

concern that there was a risk training might not be completed in time for performance to begin.

With respect to whether the agency overlooked the background of the protester's personnel, the agency explained that the proposed field technicians had radio transmitter background but there was no showing that they had experience with high power transmitters in the 1,000-watt range. According to the agency, there was a significant difference in experience between the protester's field technicians and those proposed by INTEC.

Our review of the agency evaluation materials does not support a conclusion that the agency overlooked the background of Engineered Systems's personnel or unreasonably expressed concern about completion of training. The materials show that NOAA's evaluators recognized the technical background of the protester's personnel as acceptable for performing these services, but also recognized that the unique equipment at issue here would require training in the specifics of maintaining and repairing this equipment. Thus, the concern about training expressed during the debriefing, and repeated in the protester's initial filing, simply reflected the evaluators' principal concern that the protester's personnel for the most part would be new to this particular equipment. Given that the majority of the transmitters here use older technology, and involve higher powered transmitters than those with which many of the protester's personnel have experience, there was nothing unreasonable about the evaluators' training concern, especially since the evaluators nonetheless concluded that the protester's personnel were acceptable.

In contrast, our review shows that the awardee's personnel demonstrated significant prior experience with the equipment at issue here. Not only is the awardee the incumbent on this contract, but several of the awardee's proposed field technicians have experience with the SRS transmitters under earlier contracts. In fact, our review of the awardee's proposal shows that its field technicians have approximately 85 years of combined experience working on the SRS transmitters. We see nothing unreasonable in the agency's awarding of high scores under the personnel evaluation factor for such significant levels of experience.

Finally, the protester argues that the agency could not reasonably discriminate between the two offerors with respect to their ability to service the Energy-Onix transmitters since the transmitters are so new that neither offeror has significant experience with them. While we agree with the protester that neither offeror has significant experience with the transmitters, the record supports the agency's conclusion that the awardee has more experience in this area than the protester. In addition, we note that the Energy-Onix transmitters make up a very small percentage of the total number of transmitters required to be maintained here. For this reason, even if the two offerors were equal in their ability to service the Energy-Onix equipment, it would not render unreasonable the agency's otherwise

well-documented and reasonable assessment of the comparative strengths of these two offerors in the area of personnel.

Technical Approach

In the technical approach area, the initial protest filing complained that the agency unreasonably criticized Engineered Systems for failing to provide specifics in its technical proposal. As with the other evaluation factors, the protester argues that but for the agency's unreasonable evaluation, both offerors' proposals would have been rated acceptable, and Engineered Systems's lower-priced proposal would have been selected for award. During the course of the protest, Engineered Systems urged our Office to verify its concerns in this area by comparing its test procedures plan with that of the awardee. We did so, and our review supports the agency's assessment in this area.

The RFP here, at paragraph L.6.3(f)2.(b)3., required offerors to include a test procedures plan with the following instruction:

"the plan shall include procedures for post-repair testing of the spare assemblies listed in Attachment 1C and the transmitter systems listed in Attachment 1D. The plan submitted by the Offeror will form a part of any resultant contract."

The contracting officer explained that the protester's plan did not provide specific procedures. Instead, Engineered Systems's plan "was a generic outline of the process to develop a plan instead of specifically addressing the unique and specific needs of testing the [NOAA weather radio] transmitter parts and repaired assemblies. . . ." Contracting Officer's Statement, Sept. 9, 1996, at 8.

As stated above, our review supports the agency's assessment in this area. The awardee's test procedures plan listed each of the parts covered in attachments 1C and 1D in the solicitation, and specified how it would troubleshoot those parts. In contrast, the protester's proposal is best described as a plan to develop procedures, and not the procedures themselves. For example, the plan begins as follows: "Detailed test procedures will be developed that identify the step-by-step testing operations to be performed on transmitter systems and each separate subassembly." Proposal, Appendix AP-3 at 2. In addition, our review shows that after identifying this weakness in the protester's proposal, the agency clearly voiced its concerns in this area during discussions. Specifically, in its written discussion questions the agency asked the protester to "[p]rovide specific [t]est and [p]roperty [c]ontrol plans as required by . . . the RFP." Letter from the Contracting Officer to Engineered Systems, May 15, 1996, at 4. The protester's response, in essence, was to resubmit its earlier plan.

In summary, the record here shows that the agency reasonably concluded that the protester's test procedures plan was significantly less detailed and responsive than the plan submitted by INTEC. In addition, none of the other issues raised by the protester in this area supports its conclusion that its proposal was unreasonably evaluated under the technical approach evaluation factor. Since the RFP stated that award would be made to the offeror whose proposal was determined most advantageous to the government, and since the protester has failed to show that its proposal was unreasonably evaluated, we have no basis to question the agency's conclusion that INTEC's proposal--with its substantially higher technical rating and slightly higher price--offered the best value to the government. See Irwin & Leighton, Inc., B-241734, Feb. 25, 1991, 91-1 CPD ¶ 208.

The protest is denied.

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