Comptroller General
of the United States

Washington, D.C. 20548

Decision

DOCUMENT FOR PUBLIC RELEASE

A protected decision was issued on the date below and was subject to a GAO Protective Order. This version has been redacted or approved by the parties involved for public release.

Matter of: Israel Aircraft Industries, Ltd., MATA Helicopters Division

File: B-274389; B-274389.2; B-274389.3

Date: December 6, 1996

Howard J. Stanislawski, Esq., Gary P. Quigley, Esq., and Richard L. Larach, Esq., Sidley & Austin, for the protester.
Irvin Becker, Esq., for Lear Astronics Corporation, the intervenor.
Joshua A. Kranzberg, Esq., and Tina Marie Pixler, Esq., Department of the Army, for the agency.
Henry J. Gorczycki, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. In a negotiated procurement with a stated best value evaluation plan, a contracting agency reasonably may assign a technically acceptable proposal fewer than the maximum possible evaluation score where such rating is reasonable and consistent with the evaluation methodology applied to all proposals.

2. Enhanced safety of a proposed auxiliary fuel monitoring system for a helicopter, when considered in a source selection decision, is not an unstated evaluation factor where, although not specifically stated as a factor, it is intrinsic to various stated evaluation factors.

3. Agency's identification of advantages in a proposal is not improper, even where solicitation does not state that agency will identify advantages in addition to numerically rating proposals, since source selection officials in best value procurements may always consider such information when analyzing numerical ratings.

4. Agency reasonably may evaluate an offer as posing a higher past performance risk than other offers where the offeror's performance history as stated in the proposal or otherwise obtained by the agency during evaluations is less relevant to the solicited requirement than that of the offerors rated as having a low performance risk.

5. Selection of a higher priced, higher rated offeror under a procurement where non-price factors are more important than price is reasonable where the source

selection decision is consistent with the stated evaluation plan and is reasonably supported by the record.

DECISION

Israel Aircraft Industries, Ltd., MATA Helicopters Division, protests an award to Lear Astronics Corporation under request for proposals (RFP) No. DAAJ09-95-R-0217, issued by the U.S. Army Aviation and Troop Command for the modification of External Stores Support System (ESSS) and External Range Fuel System (ERFS) Mission Kits with an Auxiliary Fuel Monitoring System for the UH/EH-60 (Blackhawk Helicopter) aircraft. Israel Aircraft contends that the evaluations and source selection decision were unreasonable and otherwise improper.

We deny the protests.

The Blackhawk Helicopter, by means of the ESSS and ERFS Mission Kits, uses outboard and/or inboard auxiliary fuel tanks to extend its flight range. Other than a float sensor to indicate when a tank is empty and a flowmeter to indicate the flow of fuel, the aircraft does not have a fuel monitoring system to indicate the level of fuel remaining in each auxiliary tank. The lack of such a fuel monitoring system currently creates difficulties for the flight crew in the management of auxiliary fuel use and of changes in the center-of-gravity of the aircraft. These difficulties create a risk to human safety and reportedly contributed to a fatal crash. This RFP solicited proposals to modify the current auxiliary fuel system with an accurate fuel monitoring system that would eliminate these difficulties.

The RFP, issued on June 26, 1995, contemplated award of a firm, fixed-price contract for base and option quantities. Initial proposals were submitted by September 6. During the course of evaluations, the Army determined that amendment of the RFP was necessary to eliminate ambiguities and conflicts. The agency suspended evaluations to permit such amendment and submission of revised proposals.

The amended RFP stated that award would be made on a best value basis with all non-price evaluation areas--technical, logistics, and past performance--together being more important than price. The technical area and price "are approximately equal in value and the most significant evaluation areas[,]" and the logistics area and past performance risk "are approximately equal in value and significantly less important" than the technical area and price. The RFP also divided the technical and logistics areas into elements and sub-elements, and stated their relative importance under

the respective area.[1] The RFP reserved the right to award to other than the lowest-priced offeror.

Six offerors, including Lear and Israel Aircraft, submitted revised proposals by April 10, 1996. The Army evaluated proposals using a combination of numerical and adjectival ratings.

The source selection plan (SSP) described how proposals would be scored. For the technical and logistics areas, the evaluators rated each sub-element on a scale of 0-10, with 0 representing a technically unacceptable sub-element (i.e., "the proposed approach indicates a complete lack of understanding of the requirements or the technical problems involved"), 5 representing an adequate sub-element (i.e., "generally meets minimum requirements"), and 10 representing an outstanding sub-element (i.e., "comprehensive and complete in all details; exceeds all requirements and objectives"). Numerical scores between these points on the scale had similar definitions consistent with their relative place on the scale. Each sub-element was also evaluated for proposal risk based on a five-place adjectival scale (low, low-moderate, moderate, moderate-high, and high). After evaluations for all sub-elements were completed, the lead evaluator for the element converted the risk ratings into point scores of up to 2 points and either added (for lower risk) or subtracted (for higher risk) these risk rating points from the numerical ratings for the sub-elements. The total numerical score for each sub-element was then adjusted to reflect its respective weight under the stated evaluation plan.

Also under the technical and logistics areas, the evaluators wrote narrative descriptions, which included identifying significant advantages (i.e., blue flags), strengths (i.e., green flags), and weaknesses (i.e., red flags). The flag narratives were not individually rated but were identified and summarized in the evaluation reports presented to the Source Selection Authority (SSA).

Past performance risk was evaluated on the same five-place adjectival scale as proposal risk; however, these risk ratings were not converted to numerical scores. Price was evaluated for completeness and reasonableness, but was not numerically scored.

---

[1]The source selection plan, which was not disclosed to offerors, identified numerical weights for the evaluation criteria. Price and technical were each worth 40 percent, and logistics and past performance risk were each worth 10 percent, which is consistent with their importance as stated in the RFP. Elements and sub-elements similarly were assigned weights consistent with the RFP.

The Army conducted discussions, and requested and received best and final offers (BAFO) by July 3. A summary of the weighted evaluations of the three highest ranked BAFOs follows:

	Lear	Offeror A	Israel Aircraft
Technical (40)	24.78	23.44	20.88
Logistics (10)	6.626	6.675	5.825
Past Perf. Risk	low	low	low-moderate
Price ($)	27,148,443	27,089,270	23,011,376

Lear had six blue flags and five green flags under the technical area, and one blue flag and seven green flags under the logistics area. Offeror A had two blue flags and three green flags under the technical area, and six green flags under the logistics area. Israel Aircraft had three blue flags and two green flags under the technical area, and three green flags under the logistics area. Israel Aircraft submitted the lowest priced proposal of the six offerors.

The agency also ranked proposals using a decision risk analysis, a methodology that uses normalized price and evaluation ratings to identify the relative value of each proposal under the stated evaluation plan. Under this analysis, the proposals of Lear, Offeror A, and Israel Aircraft were ranked first, second, and third, respectively.

The evaluation for each proposal and the agency's decision risk analysis were presented to the SSA.

The SSA's source selection decision document first summarized the evaluation of each proposal, including the specific advantages and strengths that were the bases for the blue and green flags.[2] The SSA then stated:

> "b. [Lear] was ranked highest overall in the Technical Area, and their Total Evaluated Price is ranked third. Additionally, Lear presented a very strong Logistics proposal, and Past Performance Risk Analysis uncovered few concerns. The Contracting Officer has determined [Lear] to be responsible. . . .

[2]No red flags were evaluated for any proposal.

> "c. [Lear's] exceptional Technical Proposal offers the Government a number of significant advantages, as [previously described in the decision document]. These advantages will be actualized in enhanced accuracy, maintainability, and durability for the [auxiliary fuel management system] itself, and enhanced safety for the aircraft outfitted with this system. In addition to the desirable technical advantages, [Lear's] proposal is considered to present a low overall risk.
>
> "d. Although [Israel Aircraft] presented a lower evaluated price for the [auxiliary fuel management system], technically, they were ranked third, overall. [Israel Aircraft's] Technical Proposal was acceptable, and did offer some desirable advantages, but was not as strong as [Lear's] and presented a slightly higher risk. Also, the [performance risk assessment] did show some concerns with [Israel Aircraft's] ability to successfully perform the requirements. Lack of detail throughout their proposal raised some concerns with [Israel Aircraft], and they are considered overall a higher risk for award than [Lear]."

The SSA then similarly analyzed Offeror A's proposal, conducted a tradeoff analysis weighing the advantages offered by Lear compared to the slight price advantage offered by Offeror A, and concluded:

> "The advantages offered <u>only</u> by Lear's proposal are considered highly beneficial to the Government, and worth the slight tradeoff in price." [Emphasis in original.]

The SSA then referenced the decision risk analysis and stated:

> "The results of this Analysis substantiated the overall ranking of [Lear's] proposal as offering the Best Value to the Government."

On August 9, the Army awarded the contract to Lear. These protests followed.

Israel Aircraft first alleges that its technical score of 20.88 out of 40 points was unreasonably low for a proposal that met or exceeded all of the agency's minimum requirements.

Where, as here, the RFP states a best value evaluation plan--as opposed to award to the lowest priced, technically acceptable offeror--evaluation of proposals is not limited to determining whether a proposal is merely technically acceptable; rather, proposals may be further differentiated to distinguish their relative quality by considering the degree to which technically acceptable proposals exceed the stated

minimum requirements or will better satisfy the agency's needs. Meridian Corp., B-246330.3, July 19, 1993, 93-2 CPD ¶ 29; Individual Dev. Assocs., Inc., B-225595, Mar. 16, 1987, 87-1 CPD ¶ 290; Computer Sciences Corp., B-189223, Mar. 27, 1978, 78-1 CPD ¶ 234.

Here, the rating method used by the agency under the technical and logistics areas implemented such a differentiation of proposals. A median score of 5 indicated that a proposal met the minimum requirements for the sub-element being evaluated. Scores progressively higher than 5 indicated the increasing degree to which the proposal exceeded the requirements; for example, a perfect score of 10 indicated that a proposal exceeded all of the applicable requirements.

While Israel Aircraft correctly notes that its proposal was fully responsive to the RFP, such a proposal under the Army's rating scale should properly receive approximately half of the possible points for satisfying the minimum requirements. Israel Aircraft's proposal received slightly more than half of the total possible points based on the total scores for the sub-elements, which is consistent with the Army's evaluation that Israel Aircraft's proposal met, and to some degree exceeded, the stated RFP requirements. While Israel Aircraft asserts that evaluation credit should not have been given to proposals that offered enhanced features in excess of the RFP requirements, this best value procurement, which by its terms was intended "not to restrict the ingenuity and resourcefulness of the offerors," clearly contemplated that proposals offering enhanced performance characteristics would receive appropriately more evaluation credit than proposals merely offering to meet the RFP requirements. Meridian Corp., supra; Individual Dev. Assocs., Inc., supra.

The protester has not alleged that any of its sub-element scores were unreasonable or that its total technical score was unreasonable under the rating scale employed. Based on our review of the evaluations, we find that the Army reasonably and consistently applied its scoring methodology to all proposals.

The protester next alleges that the SSA's consideration of enhanced safety to the aircraft in Lear's proposed approach was an unstated evaluation criterion. It further alleges that the use of blue flags for evaluating proposals was not identified in the RFP evaluation scheme, and that they thus are unstated evaluation factors essentially because they constitute bonus points for "gold plating" or exceeding the stated solicitation requirements.

At a minimum, a solicitation must state all significant evaluation factors and subfactors, and their relative importance. 10 U.S.C. § 2305(a)(2)(A) (1994); Federal Acquisition Regulation § 15.605(d)(1) (FAC 90-31); H.J. Group Ventures, Inc., B-246139, Feb. 19, 1992, 92-1 CPD ¶ 203. However, a solicitation need not identify

each element to be considered by the agency during the course of the evaluation where such element is intrinsic to the stated factors or subfactors. Marine Animal Prods. Int'l, Inc., B-247150.2, July 13, 1992, 92-2 CPD ¶ 16.

We agree with the Army that enhanced aircraft safety is intrinsic to the stated evaluation factors and is not an unstated evaluation factor. Not only was improving the safe operation of the aircraft the underlying basis for the auxiliary fuel monitoring system, but all of the technical elements and most of the sub-elements stated in the RFP require compliance with the performance specifications, wherein it is stated that the monitoring system:

> "shall afford the crew with a quick, unambiguous indication of fuel status and provide the crew with control capability to easily and directly manage the fuel system [and] shall monitor external auxiliary fuel for imbalance conditions that result in aircraft lateral center-of-gravity changes."

Additionally, the stated sub-elements under human factors, a stated element under the technical area, include visibility and readability, and operation. Thus, it is obvious that enhanced aircraft safety pervades this entire procurement and advantages in this regard could properly be considered by the SSA in making her award decision.

The blue flags, protested as unstated evaluation factors, were not intended or used as evaluation factors. They were nothing more than a method of identifying evaluated advantages in a proposed approach that provided valuable benefits to the agency.[3] Although the evaluation stated the number of blue flags evaluated in each proposal, the agency never relied on the sheer number of such flags to indicate the quality of a proposal as alleged by the protester; instead, the specific advantage associated with each flag was always identified.[4] Information regarding specific proposal advantages is the type of information that agencies should make available to source selection officials to enable them to reasonably determine whether and to what extent numerical or adjectival evaluation ratings indicate meaningful differences in proposals and the resulting value of such differences. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325; A & W Maintenance Servs., Inc.--Recon., B-255711.2, Jan. 17, 1995, 95-1 CPD ¶ 24.

---

[3]The protester does not allege that the advantages associated with these flags were not reasonably related to the stated evaluation sub-elements under which they were identified.

[4]Identification of these advantages in addition to the numerical scores is not double-counting of the advantages, as the protester alleges, because they merely identify, in part, the bases for the scores; they do not further increase the given scores.

Israel Aircraft next alleges that, under the past performance risk area, the Army did not reasonably evaluate the information in the protester's proposal or conduct a reasonable investigation of information outside of the proposal.[5] We disagree.

The RFP stated that the agency would focus its evaluation of past performance risk on the offerors' and proposed subcontractors' histories of past performance relevant to the proposed effort, and stated detailed instructions regarding the information that offerors were to provide. The RFP also stated that the government may use data both provided by the offeror and obtained from other sources, but warned offerors:

> "Since the Government may not necessarily interview all of the sources provided by the offerors, it is incumbent upon the Offeror to explain the relevance of the data provided . . . . the burden of providing thorough and complete past performance information rests with the offerors."

Israel Aircraft's proposal stated that it had experience in fuel measurement systems, provided a brief general description of its experience in developing fuel measurement and management systems for aircraft, and stated that its subcontractor had designed and manufactured a variety of fuel monitoring and management components and systems. However, Israel Aircraft's proposal (and revised proposal) did not provide any contract information related to its own claimed fuel monitoring system experience, but listed information for Israel Aircraft's contracts for the modification of helicopter clutches, the production of helicopter main rotor blade pockets, helicopter maintenance and crash damage repair, and a special mission crew seat, and for two contracts to repair/overhaul helicopter main rotor blades. The contract information provided for its subcontractor identified several small contracts with one aircraft company for fuel flow indicators, for which limited information was provided, and identified a contract under the control of a foreign country for a fuel gauging system for an aircraft, but stated that information about this contract could not be released.

The agency's investigation of Israel Aircraft's past performance produced little helpful information. A search of the Army and Air Force contract data bases produced no information. A Dun & Bradstreet report provided some mixed data (both positive and negative information on organizational management). A survey sent to the Army's industrial specialist who was assigned to monitor Israel Aircraft's

---

[5]Israel Aircraft's initial proposal contained insufficient information for the Army to evaluate the firm's past performance. The Army informed Israel Aircraft of these deficiencies, in response to which Israel Aircraft provided additional information. The record shows that the agency considered all information submitted by Israel Aircraft in evaluating that firm's past performance.

performance on the two contracts for repair/overhaul of rotor blades was returned with many items marked "not observed." However, the person did indicate that performance was good, although he did identify some problems.

The agency had similar difficulty in gathering information about Israel Aircraft's subcontractor. The survey sent to the reference for the contract on fuel flow indicators was not completed, but rather the aircraft company sent a one-page letter stating that its company policy restricts the amount of information it will release on its suppliers. The letter only stated that the supplier's current performance ratings for quality and delivery were below the levels established for the corporation's "Supplier Certification Program." The letter added that the supplier and the corporation "are working diligently to improve" these performance problems.

The past performance risk rating for Israel Aircraft was "low to moderate." Israel Aircraft's proposal did not demonstrate successful past performance on directly relevant contracts, although the agency considered the offeror's capability to be very diverse. The agency stated that the subcontractor's prime expertise is with fuel systems and determined that, although there are some concerns with the subcontractor's performance capabilities, the overall risk was "not expected to be of major concern."

Lear, on the other hand, provided very detailed information in its past performance proposal. Lear and its subcontracting team has extensive successful experience in electronic monitoring and control systems, including a Lear contract for the design of an aircraft fuel monitoring system with a potential value of more than twice that of this procurement. Also, the Army did not have difficulty obtaining information to confirm the information in Lear's proposal. The agency's investigation supported a determination of a "low" past performance risk rating for Lear; the protester does not challenge this rating.

In cases such as this, it is reasonable to give a better evaluation rating to offerors with successful performance on more relevant contracts. Ogden Support Servs., Inc., B-270012.4, Oct. 3, 1996, 96-2 CPD ¶ 137; TESCO, B-271756, June, 24, 1996, 96-1 CPD ¶ 284. The record shows that Lear reported and documented more relevant successful experience than did Israel Aircraft. Moreover, since the RFP stated that it was the offeror's responsibility to provide the information sufficient for evaluation, including relevance of past contracts, and that the agency may rely solely on the information provided by the offeror, we do not think the agency was required to do a more extensive investigation than it did here, notwithstanding the unsupported general statements in Israel Aircraft's proposal about claimed experience in fuel measurement systems. Thus, we find from this record that the evaluation of past performance was reasonable.

The protester also alleges that the Army did not perform a cost/technical tradeoff to determine whether an award based on Lear's higher rated proposal offered

sufficient benefits to the Army to justify paying almost $4 million more than Israel Aircraft's lowest priced proposal.

In a negotiated procurement, unless the RFP so specifies, there is no requirement that award be based on lowest price. Lloyd-Lamont Design, Inc., B-270090.3, Feb. 13, 1996, 96-1 CPD ¶ 71. A procuring agency has the discretion to select a higher rated technical proposal if doing so is reasonable and consistent with the evaluation scheme set forth in the RFP. We will uphold an award to a higher rated offeror at a higher price where the agency reasonably determined that the cost premium was justified considering the technical superiority of the selected proposal. Even where a source selection official does not specifically discuss the cost/technical tradeoff in the source selection decision, we will not object if the tradeoff is supported by the record. Id.

Here, although the protester correctly points out that the source selection decision does not specifically identify the SSA's tradeoff rationale in selecting Lear's higher rated proposal over Israel Aircraft's lower rated, lowest priced proposal, we think the record reasonably supports the tradeoff that was implicit in the decision. The decision document does explain the tradeoff that the SSA made between Lear's and Offeror A's proposals since Offeror's A's proposal was second ranked overall. The SSA also specifically reviewed the evaluations and considered the specific advantages that Lear's proposal had over Israel Aircraft's proposal, and noted that Israel Aircraft had submitted the lowest price.[6] The record evidences that Israel Aircraft's proposal was evaluated lower than Lear's proposal for every non-price evaluation area, and that Lear's significant non-price advantages relate directly to the stated evaluation criteria;[7] the Army states that these additional advantages of Lear's proposal offset the lower price of Israel Aircraft's proposal. Since the non-price evaluation areas together are more important than price under the stated evaluation scheme, the tradeoff implicit in the SSA's selection of Lear over Israel Aircraft is supported by the record, and is reasonable and consistent with the evaluation criteria. See id.; Pressure Technology, Inc., B-265793, Dec. 29, 1995, 95-2 CPD ¶ 288; Litton Indus., Inc., B-236720, Dec. 26, 1989, 89-2 CPD ¶ 595.

---

[6]The record shows that the SSA was advised and was cognizant of the specific prices offered by the six offerors.

[7]Lear's proposal advantages, excluding the ones that it has in common with the protester's, are:

[DELETED]

These advantages were identified in the evaluation documents under the specific stated evaluation sub-elements to which they relate.

Finally, Israel Aircraft alleges that the decision risk analysis conducted by the agency distorted the ranking of offerors and thus cannot be the basis for a reasonable source selection decision. However, the decision risk analysis was not the basis for the source selection decision here. As evidenced by the source selection decision document, the SSA first made her decision based on the raw evaluation data and only then referenced the decision risk analysis to find that it supported her decision. The agency also states that the analysis is only a tool to assist the agency in comparing the relative value of proposals in numerical terms. Furthermore, even if we assume that all of the protester's allegations about the distortions in the decision risk analysis are true and the analysis is adjusted to eliminate these distortions, by our calculations, and given our conclusions as set out above, Israel Aircraft's proposal would be ranked second and Lear's proposal would remain first.

The protests are denied.

Comptroller General
of the United States