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Decision

Matter of: General Dynamics C4 Systems, Inc.

File: B-299675.2; B-299675.3; B-299675.4

Date: May 30, 2008

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Jeffrey I. Kessler, Esq., and Glenda J. Collins, Esq., Department of the Army, for the agency.

Linda C. Glass, Esq., and Ralph O. White, Esq., Office of General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency's evaluation of proposals, and the resulting source selection decision, were unreasonable is denied where the record shows that the agency's evaluation assessments were reasonable and consistent with the solicitation's evaluation factors, and where the record shows that the resulting selection decision clearly documents the selection official's understanding of the evaluation results and reasonably assesses the evaluated strengths and weaknesses of the respective proposals in the tradeoff decision.

DECISION

General Dynamics C4 Systems, Inc. protests the award of a contract to Northrop Grumman Mission Systems, Inc. under request for proposals (RFP) No. W31P4Q-07-R-0052, issued by the United States Army Aviation and Missile Command for the Standardized Integrated Command Post System Family of Trailer Mounted Support Systems (TMSS or "trailer system") in support of the United States Army Tactical Operations Centers. General Dynamics essentially objects to the evaluation of proposals and challenges the agency's best value determination.

BACKGROUND

The RFP, issued on an unrestricted basis on March 16, 2007, contemplates the award of an indefinite-delivery/indefinite quantity fixed-priced contract for medium and large trailer systems for a base period and four additional 1-year ordering periods. The TMSS is described as a turnkey system and is being obtained as a non-developmental item/commercial-off-the-shelf solution comprised of a controlled-environment tent, an environmental control unit (ECU), an auxiliary power unit for the ECU (*i.e.*, a generator), and a trailer. RFP, attach. 2, § 1.2. The TMSS provides for workspace, power distribution, lighting, heating and cooling, tables, lightweight/integrated flooring, and a common grounding system for the staffs of all battlefield functional areas. *Id.*

The RFP provided that the award would be made based on the proposal determined to be most advantageous to the government with appropriate consideration given to the following evaluation factors: technical,¹ price and performance risk.² RFP § M.1. The RFP stated that technical was significantly more important than price which was slightly more important than performance risk. RFP § M.2.b. The RFP also provided that all non-price evaluation factors combined were significantly more important than price. *Id.*

With respect to the technical evaluation factor, the RFP stated that the government would evaluate the overall merit and risk presented by the technical proposals. In this regard, the RFP anticipated an assessment of the strengths and weaknesses of the offerors' technical approach, as well as their ability to deliver systems and supporting products that meet the RFP requirements. RFP § M.2.c. The RFP identified the following subfactors under the technical evaluation factor: product technical performance, safety, logistics and production capability, quality assurance program and failure reporting analysis, and corrective action system.³

¹ Under the technical factor, the agency used the following ratings: excellent, good, satisfactory, marginal, or unsatisfactory. Technical proposal risk was assessed as: high risk, moderate risk, or low risk. Agency Report (AR), Tab K, Source Selection Authority (SSA) Decision, at 4.

² Under the performance risk factor, offers were assessed as: high performance risk, moderate performance risk, low performance risk, or neutral performance risk. *Id.* at 4-5.

³ Among these subfactors, the RFP explained that product technical performance was somewhat more important than safety; safety was slightly more important than logistics; and logistics was somewhat more important than production capability. The production capability, quality assurance program and failure reporting analysis, and corrective action system subfactors were of equal importance. RFP § M.2.c.

Under the product technical performance subfactor, the RFP identified the following elements to be evaluated in descending order of importance: ECU, generator, trailer and tent. RFP § M.2.c.1. The purpose of evaluating these elements was to determine the degree to which the offered trailer system conformed with the individual performance specifications in the RFP. Id. Offerors were warned that their products would be required to meet all of the requirements that were identified as critical performance parameters.

Additionally, with respect to the product technical performance subfactor, the RFP stated:

The offeror shall fully describe the test and evaluation plan, methods, procedures and test/event dates used to test and verify the proposed TMSS products performance, including details of the test and evaluation approach and methodology used to verify and qualify the design performance and capability of their product.

(a) The offeror shall prepare a Cross Reference Verification Matrix (CRVM), using DI-MISC-81283 as a guide that identifies the test, analysis, inspection or other method used to verify conformance of the offered products performance against the requirements of MIS-PRF-56014. For methods used other than that detailed in Section 4 of the performance specification, the offeror shall provide justification for Government acceptance. All data referenced within the CRVM shall be provided with the proposal. The offeror shall provide verifiable data from a recognized independent test center. One such test center is Aberdeen Proving Grounds, MD 21005, . . . Actual test data in the form of a report is preferred.

(b) The offeror shall provide detailed definition(s) of product configuration used during verification testing as provided in the CRVM. Rationale for acceptance of test data from other than the offerors proposed production configuration shall be provided.

RFP § L-4.b.1.

The agency received proposals from General Dynamics and Northrop by the closing date. The source selection evaluation board (SSEB) conducted an initial evaluation and reached the following overall conclusions:

	General Dynamics	Northrop
Technical/Proposal Risk	Unsatisfactory/High Risk	Unsatisfactory/High Risk
Performance Risk	Low Risk	Low Risk
Proposed Price	\$217.5 million	\$277.2 million

AR, Tab K, SSA Decision, at 2. Despite the low technical ratings shown above, the SSA concluded that both offerors had the potential for becoming eligible for award and included both of their proposals in the competitive range.

At this point, the agency provided written discussion questions to both offerors, and both were provided a letter identifying the deficiencies and weaknesses in their proposals. Additionally, a teleconference was held with both offerors to ensure that each understood the discussion questions. At the conclusion of these discussions, the two offerors were asked to provide revised proposals. The proposals were again evaluated and again both were assessed as unsatisfactory/high risk under the technical evaluation factor.

As a result, the agency decided to hold a second round of discussions with both offerors. On October 11, letters were sent identifying the remaining deficiencies, weaknesses and risks in each proposal. In addition, oral discussions were held with both offerors on October 17. During this round of discussions, Northrop was notified of 4 remaining deficiencies and 2 weaknesses in its proposal; General Dynamics was notified of 12 remaining deficiencies and 7 weaknesses. Both offerors were advised that unless these deficiencies were corrected their proposals would be ineligible for award.

By October 24, both offerors again submitted revised proposals. At the conclusion of this final evaluation, the General Dynamics proposal continued to receive a rating “unsatisfactory/high risk” because the proposal was assessed by the agency as having three remaining deficiencies. The final evaluation results are set forth below:

	General Dynamics	Northrop
Technical/Proposal Risk	Unsatisfactory/High Risk	Satisfactory/Low Risk
Performance Risk	Low Risk	Low Risk
Proposed Price	\$215.6 million	\$277.2 million

AR, Tab K, SSA Decision, at 3.

The final evaluation results were presented to the SSA, who compared the strengths, weaknesses and risks of each offeror’s proposal, the price evaluation, and the evaluation criteria. Despite the earlier warning that offerors would not be eligible for award if deficiencies remained in their proposal, or if the proposals failed to meet all of the RFP-identified critical performance parameters, the SSA included General Dynamics in the tradeoff decision. Id. at 21.

In the tradeoff decision, the SSA noted that the General Dynamics proposal had not established the company’s compliance with three critical performance parameters. Specifically, General Dynamics’ overall technical rating was viewed as unsatisfactory due to remaining deficiencies assessed under the trailer element of the product technical performance evaluation sub-factor. Contracting Officer’s (CO) Statement

at 3. These deficiencies were that the proposal did not provide adequate verification that: the medium trailer system could meet the total gross weight requirement; or that either the medium or the large trailer system could pass the 3,000 mile mission profile test. Id. The SSA noted, however, that the General Dynamics proposal received a low performance risk rating, and provided the lowest price.

In contrast, the SSA noted that the Northrop proposal adequately verified that its trailer system met all of the RFP-identified critical performance parameters, and that its proposal was rated satisfactory with respect to the other technical requirements. The SSA also noted that Northrop received a low risk rating for past performance, but noted its higher price. Based on the results of this comparison, the SSA concluded that Northrop's proposal offered the best value to the government, and awarded the contract to Northrop on February 12. After General Dynamics received its debriefing, it filed a protest with our Office on February 25, which it supplemented on March 3 and April 7.

DISCUSSION

General Dynamics essentially argues that the agency failed to evaluate offerors on a consistent and equitable basis. The protester contends that the agency arbitrarily disqualified its proposal, improperly relied upon an unannounced requirement for a system-level test, improperly scored its proposal, and failed to perform a proper best value determination.

Our Office reviews challenges to an agency's evaluation of proposals only to determine whether the agency acted reasonably and in accord with the solicitation's evaluation criteria and applicable procurement statutes and regulations. Marine Animal Prods. Int'l, Inc., B-247150.2, July 13, 1992, 92-2 CPD ¶ 16 at 5. A protester's mere disagreement with the agency's judgment is not sufficient to establish that an agency acted unreasonably. Entz Aerodyne, Inc., B-293531, Mar. 9, 2004, 2004 CPD ¶ 70 at 3.

Technical Evaluation

As explained above, under the most important technical evaluation subfactor, product technical performance, the RFP provided that the agency would evaluate the verification data provided in the proposals to determine whether the offered product met the requirements of the individual performance specification. In addition, to be eligible for award, the trailer system was required to meet all of the specifications identified as critical performance parameters in the RFP.

The agency found that with respect to three critical requirements, the protester provided incomplete test data and/or analysis to adequately support a conclusion that its medium and large trailer systems satisfied these requirements. The overall rating of General Dynamics' proposed trailer system under each of the technical

elements (under the product technical performance evaluation subfactor) was as follows:

ELEMENT	RATING	RISK
ECU	Marginal	Moderate
Generator	Satisfactory	Moderate
Trailer	Unsatisfactory	High
Tent	Good	Low

AR, Tab K, SSA Decision, at 8.

Since offerors were required to establish compliance with all critical performance parameters through test data analysis to be eligible for award, and since the protester could have been reasonably excluded from award for any of the three areas in which it failed to establish its compliance, we will not discuss in detail the protester's challenges to all three of these areas. Although we have reviewed all of the protester's challenges--and conclude that the agency evaluation was reasonable in all three instances--we set forth below our review of the protester's contention that the agency acted improperly in concluding that the proposal did not establish that General Dynamics' medium trailer system would comply with the stated weight requirements.

The RFP required that the total gross weight of the medium trailer system could not exceed 4,200 pounds with all equipment, including the ECU, generator, trailer and tent. RFP ¶ 3.2.6.8.1.1. The agency rated the General Dynamics proposal as unsatisfactory with high risk under this element because the evaluators concluded that the proposal failed to provide sufficient data to verify that the medium trailer system met the weight requirement, in part because the proposal did not include evidence that the proposed system was ever actually tested or weighed.

Specifically, the agency found that the configuration of the medium trailer system tested was different from the system being proposed, and that the proposal's so-called "similarity analysis" (as opposed to actual testing) was insufficient to establish that the system would comply with the total gross weight requirement. In support of its conclusion, the agency explained that (1) the tent weight identified in the proposal estimate had changed several times with no explanation; (2) the trailer configuration had changed, and the changes did not match the weight changes identified; and (3) there was no explanation of how additions to the ECU portion of the unit would affect its weight. AR, Tab F6a, Consensus Report, at 14. In addition, the agency expressed concerns about the protester's use of estimated weights for its system, instead of actual weights, in part because the estimated weight of the configuration was within 8 pounds of the maximum weight allowed, leaving little room for error. CO Statement at 13.

The protester answers these conclusions by arguing that it met every critical performance parameter, it took no exceptions to any requirements, and the test data and information it provided permitted verification of its compliance with the requirements under methods specifically identified in the RFP. The protester also contends that the agency misread its proposal and discussion responses. Primarily, the protester argues that it was unreasonable to conclude that it violated the weight requirement when the combined weight of the component parts in its proposal totals 4,192 pounds, which is within the 4,200 pound weight limit.

To support its contentions the protester argues that: (1) the agency incorrectly concluded that the stated weight of the tent did not include all of its components, including hardware and accessories; (2) the agency incorrectly concluded that the estimated weight for the system did not include all ECU components; (3) the weight changes in the different versions of its proposal were due to its correction of earlier errors; and (4) it was unreasonable for the agency to conclude that the proposal insufficiently documented the system's compliance with the weight limitation. Finally, the protester argues that the agency improperly applied an unannounced requirement for a system-level test to establish that the system met the weight limitations.

Based on our review of the record, we think this protest, essentially, is about a disagreement with the agency's judgment as to the adequacy of the protester's similarity analysis in determining whether the proposed trailer systems would satisfy critical requirements. Despite the protester's contention that the agency was improperly requiring only one type of testing—i.e., system level testing—to establish compliance with requirements, the record shows that General Dynamics used, and the agency accepted, several testing approaches for verifying compliance with most of the critical requirements at issue in this procurement. With respect to the three final deficiencies (including the weight requirement), however, the agency concluded that General Dynamics simply did not provide sufficient justification to support a finding that it was offering to comply with the requirements.

Although the protester, through its protest submissions, attempts to explain how it demonstrated its compliance with the weight requirement, the record shows that during two rounds of discussions, the protester was repeatedly and specifically advised of the agency's concerns with the medium trailer system configuration. The record also shows that the protester was told in great detail that the similarity analysis/rationale it was using was insufficient to verify that the proposed medium trailer system would comply with the weight requirement. AR, Tab F-3. While the protester was able to satisfy the agency with respect to most of the issues concerning its medium trailer system, it was unable to provide a suitable explanation for why the agency should accept data based on a different trailer manufacturer, a different size and manufacturer of the ECU, and a different size and manufacturer of the generator.

In sum, we find that the agency reasonably concluded that the General Dynamics' proposal failed to provide sufficient support for the assertion that its medium trailer system satisfied the critical weight requirement. It is the responsibility of offerors to include sufficiently detailed information in their proposals to establish that the item offered will meet material solicitation requirements--blanket statements of compliance cannot fulfill this obligation. Outdoor Venture Corp., B-288894.2, Dec. 19, 2001, 2002 CPD ¶ 13 at 3.

With respect to the protester's assertion that the agency was unreasonable in its review of the analysis upon which General Dynamics relied to establish its compliance with these requirements, we disagree. The RFP required offerors to provide a rationale for the use of any similarity analysis, and the protester was made aware of the agency's concerns throughout this procurement. Specifically, the agency expressly advised the protester during discussions that the information provided in the proposal was not sufficient to verify compliance with the RFP's requirements.⁴ As the agency maintains, the three deficiencies remaining in the protester's proposal were not based on the fact that testing was not accomplished on the exact configuration being offered, but because of the incomplete and inconclusive justification and rationale provided by the protester to substantiate its claim of compliance.⁵ CO Statement at 8.

With respect to the contention that it was unreasonable for the agency to assess the proposal as unsatisfactory with high risk under the entire technical evaluation factor (and under the product technical performance subfactor) because of its rating of unsatisfactory with high risk under the trailer element, we again disagree. As explained above, the RFP here required offerors to satisfy all critical requirements of the system specifications to be eligible for award. RFP ¶ M.2.c.1. In addition,

⁴ In its protest, General Dynamics argues that the RFP was ambiguous as to what level of verification was required. We disagree. The RFP identified the information that would be acceptable, and explained that if an offeror intended to rely on test data from a similar product, the offeror would have to provide a sufficient rationale for acceptance of this data. RFP § L.b.1.

⁵ As indicated above, we have also reviewed in detail the agency's concerns with respect to the protester's failure to establish that its medium and large trailer systems complied with the 3,000 mile mission capability profile test. The agency generally questioned the protester's similarity analysis because it was based on tests performed on a system that had a different trailer manufacturer, a different size and manufacturer for the ECU component, and a different size and manufacturer for the generator component than the system being proposed. Based on these discrepancies, we cannot say it was unreasonable for the agency to question whether the protester provided a sufficient rationale to accept the proposal's similarity analysis.

offerors were advised during discussions that if these deficiencies remained, their proposals would not be eligible for award. Given that the protester's final proposal was evaluated as not satisfying three of these critical requirements, we see nothing unreasonable about reflecting this issue in the overall subfactor and factor ratings.

Disparate Treatment of Offerors

In its supplemental protest, the protester argues that the source selection decision was improper because the SSA was misled by the evaluators as to the merits of the proposals. Specifically, the protester contends that the evaluation documents show that despite the SSEB's representation that Northrop complied with all specifications, Northrop also failed, in the protester's view, to meet three requirements.⁶ Among other things, the protester contends that the generators identified for Northrop's large and medium trailer systems did not comply with the "radiated susceptibility" requirement because no high altitude testing had been performed, and because Northrop's generators did not meet a specification requirement for parallel operation.

With respect to the high altitude test data concerning radiated susceptibility, the agency responds that Northrop provided test data that verified its compliance with this requirement in answer to discussion questions. CO Supp. Statement at 6. With respect to the requirement for parallel operation of the generators, the agency explains that this was not identified as a critical requirement in the RFP, and was instead, a desirable, but not required, feature. *Id.* at 4.

While the protester concedes that parallel operation of generators was not a critical requirement (*see* Protester's Supp. Comments, May 5, 2008, at 7) it continues to argue that the SSA was improperly told that Northrop satisfied all performance specifications, and that the SSA relied on this erroneous information in making the selection decision. In addition, and notwithstanding the agency's statements to the contrary, the protester also continues to question whether Northrop satisfied the radiated susceptibility requirement. In essence, the protester maintains that the

⁶ Although the supplemental protest alleges that Northrop's proposal failed to meet several performance specifications, the record shows that one of the alleged instances of noncompliance was simply not accurate. According to the protester, one agency evaluator noted a weakness with respect to the ECU component of Northrop's large trailer system. The weakness was that the component was not tested to determine if it met the protective covers requirement to "remain securely fastened when exposed to pulsing wind during [External Air Transport]." RFP ¶ 3.2.1.7.1. However, this requirement only applies to the medium trailer system not the large system. Northrop's medium trailer system did undergo testing and the agency concluded that it met the protective covers requirement. CO Supplemental Statement at 6.

agency consistently applied a more lenient evaluation standard to Northrop's proposal than was applied to General Dynamic's proposal by having confidence in all of Northrop's data and analysis.

We have reviewed these contentions, and in our view, the record here does not support these arguments. Northrop's deficiencies and weaknesses were resolved through the submission of additional test data during discussions. The record shows that the agency performed a detailed evaluation of every element of both proposals and provided both offerors multiple opportunities to submit acceptable proposals that satisfied all requirements. As with Northrop's proposal, the record also shows that large amounts of the protester's test data and similarity analysis were accepted to demonstrate compliance with the specifications, with the exception of the three remaining deficiencies. With respect to those, we think the agency reasonably concluded that the protester simply failed to demonstrate compliance with the critical requirements of this solicitation, even after being advised in detail and with specificity of the agency's concerns.⁷

Best Value Determination

Finally, the protester argues that the best value decision here was flawed.⁸ As before, and again, we disagree.

As discussed above, we have concluded that the agency's evaluation was reasonable and consistent with the evaluation criteria. The SSA selected Northrop for award

⁷ The protester also maintains that disparate treatment exists because the agency contacted the testing agency identified in Northrop's proposal to validate the proposal's test data, but did not contact the manufacturer of General Dynamic's ECU component to clear up issues with the protester's proposed ECU. However, the record shows that both offerors agreed to allow the agency to contact testing agencies to clarify test data. Moreover, the Army reports that it contacted the test agencies identified by both Northrop and General Dynamics to verify test data. CO Supplemental Statement at 12. The protester's argument that these facts constitute disparate treatment is utterly unconvincing.

⁸ Finally, we note that throughout this protest, General Dynamics argues that the SSA misunderstood the SSB evaluation, and failed to recognize that the evaluators never found that the protester's trailer system did not meet the solicitation requirements, but instead found that the protester failed to provide sufficient verification data to demonstrate its compliance. We have seen no evidence in our review of this record that the SSA did not understand or appreciate this distinction.

We again note that under the RFP, the agency was under no obligation to conduct a tradeoff between the proposals since General Dynamics' proposal was unacceptable.

after reviewing the SSB report, the Performance Risk Assessment Report and the Price Analysis Report. The SSA specifically recognized the price difference between the proposals, noted that the protester failed to meet performance and capability standards in the specification, and observed that the General Dynamics proposal could not meet the requirements of the RFP without major changes. The SSA concluded that the unanswered questions about the General Dynamics system could lead to serious and life-threatening failures to communicate on the battlefield. As a result, the SSA decided that award to Northrop at a higher price was in the government's best interest. AR, attach. K, at 26. We have no basis to question that determination.

Based on our review of the record, we conclude that the agency's evaluation, and the source selection decision that resulted, were reasonable and in accordance with the terms of the solicitation.

The protest is denied.

Gary L. Kepplinger
General Counsel