Comptroller General
of the United States

Washington, D.C. 20548

Decision

REDACTED DECISION

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Matter of: Lockheed Support Systems, Inc.

File: B-265663.2

Date: February 7, 1996

Stan Hinton, Esq., Baker & Botts, for the protester.
J. Michael Cooper, Esq., Bryan Cave, for McDonnell Douglas Aerospace, an interested party.
Rosalind Woolbright, Esq., Anthony Sweeney, Esq., and J. Cole Cartledge, Esq., Department of the Navy, for the agency.
Guy R. Pietrovito, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

In a negotiated best value procurement for aircraft maintenance services, in which technical merit was more important than price, the source selection official reasonably considered the technical merit and value underlying the evaluation ratings of the protester's and awardee's proposals, as well as the cost savings in various streamlining proposals of the protester, and determined that the protester's higher-rated, higher-priced offer was not worth the substantial price premium associated with its proposal.

DECISION

Lockheed Support Systems, Inc. protests the award of a contract to McDonnell Douglas Aerospace (MDA) under request for proposals (RFP) No. N68520-95-R-0001, issued by the Department of the Navy for maintenance services for various fighter and strike aircraft in the agency's Naval Tactical Air Warfare program.[1] Lockheed challenges the agency's evaluation of technical proposals and cost/technical tradeoff analysis.

We deny the protest.

[1]This program is part of the Navy's training provided to Navy fighter (aircraft that attack other aircraft or missiles) and strike (aircraft that attack ground targets) pilots.

The RFP contemplated the award of a firm, fixed-price contract[2] for organizational and selected intermediate level maintenance services for various fighter and strike aircraft in squadrons located at Fallon, Nevada; Yuma, Arizona; Miramar, California; and Key West, Florida, for 1 base year with 4 option years. A detailed statement of work (SOW) was provided, which included site specific addenda for each squadron to be maintained.

The SOW provided that the contracter must comply with the provisions of the Naval Aviation Maintenance Program, as set forth in the Chief of Naval Operations Instruction (OPNAVINST) 4790.2E, which identifies policies, procedures, and responsibilities for the conduct of maintenance throughout naval aviation. The instruction identifies three levels of maintenance services: "organizational" level maintenance, which is defined to be maintenance normally performed by an operating unit on a day-to-day basis in support of its own operation (e.g., flight line maintenance services); "depot" level maintenance, which is defined as maintenance generally performed at naval aviation industrial establishments to ensure continued flight integrity of airframes and air flight systems; and "intermediate" level maintenance, which is a level of maintenance in between organizational and depot level maintenance.

The RFP identified the numbers and types of aircraft to be supported at each squadron location, and requested fixed-price monthly rates for organizational and selected intermediate-level maintenance for the aircraft in the squadrons identified in the SOW. In pertinent part, offerors were informed that the Naval Strike Warfare Center (commonly referred to as the "Strike U" squadron) was located at Naval Air Station (NAS) Fallon and that the Navy Fighter Weapons School (known as the "Top Gun" squadron) and the Fighter Reserve Composite Squadron One Three would be transferred from NAS Miramar to NAS Fallon. A total of three squadrons are ultimately to be located at NAS Fallon.[3]

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[2]The contract also contained some cost reimbursement elements, which are not relevant to this protest.

[3]Another squadron already based at NAS Fallon is scheduled to be disestablished early in the base year.

The RFP provided that award would be made on a best value basis and stated that technical merit was more important than price in the overall evaluation of proposals. The following technical evaluation factors and subfactors were stated:

1. Program requirements

    a. Quality/safety
    b. Maintenance and technical services
    c. Support functions
    d. Foreign object damage program
    e. Tool control
    f. Personnel
    g. Maintenance plan

2. Management

    a. Organizational responsibilities
    b. Past performance
    c. Management performance indicators
    d. Phase-in/phase-out plan
    e. Availability of resources
    f. Physical security
    g. Total quality management
    h. Contract data requirements

Offerors were informed that program requirements and price were of equal weight and that management was of slightly less importance than either of the other two factors. Within the program requirements factor, the quality/safety subfactor was stated to be of equal importance to the combined total of the other seven subfactors. The subfactors of the management factor were stated to be of equal importance. Offerors were also informed that the agency would assess the risk associated with their proposals.

Detailed instructions were provided for the preparation of the offerors' proposals. Among other things, offerors were encouraged to submit acquisition streamlining recommendations for contract performance. The RFP stated that offerors' "baseline" proposals (that is, proposals excluding any streamlining suggestions) would be evaluated for acceptability; the agency would then consider streamlining suggestions from the offerors whose baseline proposals were determined to be technical acceptable. Offerors were instructed that:

> "The government, at its sole discretion, will accept those acquisition streamlining suggestions (if any) it considers desirable. The resulting proposal will then be evaluated in accordance with the criteria specified in Section M [of the RFP].

"The government may then award the contract based on evaluation of the offeror's 'baseline' proposal as modified by the accepted acquisition streamlining suggestion(s) (if any) without requesting best and final offers [BAFO]."[4]

Proposals were received from three offerors, including Lockheed (the incumbent contractor for these services) and MDA, and evaluated by the agency's technical evaluation team (TET) and cost evaluation team (CET). The evaluation teams' findings were provided to a procurement review board (PRB), which briefed the source selection official (SSO). The SSO determined that discussions with the offerors were necessary, and that only Lockheed's and MDA's proposals should be included in the competitive range. After discussions were conducted, BAFOs were evaluated as follows:[5]

	Lockheed	MDA
	Rating/Risk	Rating/Risk
Program requirements	O/L	H/M
Management	O/L	H/L
Price/cost[6]	$119.6 million	$105.8 million

Lockheed's outstanding, low risk BAFO rating reflected the TET's judgment that Lockheed's proposal exceeded the RFP requirements in a number of areas. MDA's highly acceptable, medium risk BAFO rating reflected the TET's judgment that MDA's proposal more than satisfied the RFP requirements, but had not demonstrated specifically relevant past experience and that approximately 10 percent of MDA's key personnel resumes (three resumes) did not demonstrate the experience specified in the RFP. MDA's substantial price advantage basically reflected that firm's offer to consolidate maintenance functions for the three squadrons to be based at NAS Fallon, whereas Lockheed's higher-priced baseline

[4]The RFP incorporated by reference Federal Acquisition Regulation (FAR) § 52.215-16, Alternate III, which provides that the government intends to make award without conducting discussions but reserves the right to conduct discussions if necessary.

[5]Proposals were evaluated under each evaluation factor and subfactor as either outstanding (O), highly satisfactory (H), satisfactory (S), marginal (M), or unsatisfactory (U) and were assessed for proposal risk as either high risk (H), moderate risk (M), or low risk (L).

[6]Base year prices plus option year prices for the baseline proposals.

proposal offered a separate maintenance organization for each squadron at each NAS. Hearing Transcript (Tr.) at 342.[7]

The TET's and CET's evaluation findings were briefed to the PRB, which also received briefing charts from each team. The technical briefing charts provided for each offeror the TET's adjectival rating for each factor and subfactor, and included a narrative statement of the strengths and/or weaknesses upon which each adjectival rating was based. The TET and CET briefing charts also highlighted the TET's and CET's evaluation of each of Lockheed's 12 offered streamlining recommendations. The PRB recommended that award be made to MDA, as the offeror whose proposal was most advantageous to the government.

The TET and CET briefing charts were provided to the SSO, who was also briefed by the PRB chair. Tr. at 277-78. The SSO determined that the technical merit evaluated in Lockheed's proposal did not justify the payment of a substantial price premium. In making this determination, the SSO also reviewed the ratings for each evaluation subfactor and determined that there was not "a great distinction between the technical merit of the two offerors." Tr. at 280. The SSO also considered the price reductions offered in a number of Lockheed's streamlining recommendations, which reduced MDA's price advantage to approximately $6 million; the SSO, however, determined that the evaluated technical merit of Lockheed's proposal only justified the payment of a price premium of approximately $2 million to $3 million. Tr. at 297, 301-06, 328. Accordingly, the SSO decided that MDA's substantially lower-priced proposal offered the best value to the government.

Award was made to MDA, and this protest followed. Subsequently, the SSO again reviewed the TET's evaluation determinations, and for the first time read Lockheed's and MDA's proposals. The SSO testified that he:

> "did the same type of cost/technical tradeoff that [he] had initially performed. It was a mental exercise to look for merit, to look for value, and to make appropriate tradeoffs between technical, price and management and merits of the two competitors." Tr. at 283-84, 343.

Based on this new review, the SSO ratified his earlier selection of MDA's proposal based upon his determination that the technical merit evidenced in Lockheed's proposal was not worth more than a $1 million or $2 million price premium. Tr. at 328.

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[7]A hearing was held in this protest pursuant to 4 C.F.R. § 21.5 (1995), at which a number of government and Lockheed witnesses, including the SSO and the TET chair, testified.

Lockheed's first challenge to the selection of MDA's proposal for award is grounded upon the protester's assertion that the RFP and OPNAVINST 4790.2E require separate maintenance organizations for each squadron. As noted above, Lockheed offered in its baseline proposal a separate maintenance organization for each squadron, while MDA offered a consolidated maintenance organization for the three squadrons at NAS Fallon. Accordingly, Lockheed argues that MDA's proposal was unacceptable.

The Navy and MDA respond that the RFP and OPNAVINST 4790.2E do not specify whether maintenance functions for the squadrons must be performed by either separate or consolidated organizations. We agree.[8] While Lockheed argues that the SOW's separate site specific addenda for each squadron indicate that a separate maintenance organization is required for each squadron, we find from our reading of these addenda, as well as the SOW and the RFP as a whole, that the addenda merely supplement the basic SOW requirements on a site-specific and squadron-specific basis; we do not find anything in the addenda or the SOW that requires that the contractor have a separate organization supporting each squadron.[9] Regarding OPNAVINST 4790.2E, Lockheed admits that the instruction is "silent" as to whether a consolidated maintenance approach is acceptable, see Tr. at 83, but argues that the instruction's overall structure and objectives indicate that separate maintenance organizations are required. However, from our review of the six volumes comprising OPNAVINST 4790.2E, we find that the instruction states the Navy's overall policies, procedures, and responsibilities for conducting naval aviation

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[8]There was inconclusive testimony about whether the TET chairman orally advised Lockheed prior to the submission of initial proposals that a consolidated approach was acceptable or not acceptable. See Tr. at 92-92, 95-97, 100, 127, 129-30. However, as indicated, the RFP did not mandate either approach.

[9]Lockheed argues that some TET members shared Lockheed's interpretation that the RFP and OPNAVINST 4790.2E require separate maintenance organizations for each squadron. The TET chair testified, however, that none of the TET members believed that the offer of a consolidated maintenance organization would not be in compliance with the RFP. Tr. at 154. From our review of the individual evaluators' worksheets, as well as the TET chair's testimony, it does not appear that any of the evaluators found that the offer of a consolidated maintenance organization was contrary to the requirements of the RFP or the instruction. Rather, the record merely establishes that many members of the TET believed that separate maintenance organizations were more desirable than a consolidated maintenance approach. Tr. at 155-56. The SSO was aware of the evaluators' preferences for separate maintenance organizations, but believed himself that a consolidated maintenance approach was more advantageous. Tr. at 290-91.

maintenance programs, but does not specify that contractor-provided maintenance must be in the form of a separate organization per squadron.[10]

Lockheed also protests that Lockheed's and MDA's proposals were not evaluated on a common basis.[11] Specifically, Lockheed complains that the Navy accepted MDA's offer in its baseline proposal to provide a consolidated maintenance organization to perform maintenance services for three squadrons at NAS Fallon, while Lockheed's offers in its streamlining recommendations to provide varying levels of consolidated maintenance at NAS Fallon were rejected.

The record does not show that the offerors were treated unequally in the agency's evaluation. As noted above, the RFP allowed an offeror to elect whether it would perform the required maintenance services for a squadron using either a separate or consolidated maintenance organization. Both Lockheed and MDA proposed, as their baseline approach, separate maintenance organizations at Key West, Yuma, and Miramar. For NAS Fallon, Lockheed's baseline proposal was to provide separate maintenance organizations for each of the three squadrons, while MDA's baseline proposal was to provide one consolidated organization to perform maintenance

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[10]The Navy is accorded deference in the interpretation of its own instruction. See Commercial Energies, Inc., 70 Comp. Gen. 44 (1990), 90-2 CPD ¶ 319. Here, we have consistent testimony from the SSO and the TET chair and legal argument that plainly states the Navy's interpretation that OPNAVINST 4790.2E does not mandate separate maintenance organizations for each squadron.

In addition, much argument and testimony has been provided regarding the performance of Lockheed's prior contract, under which Lockheed initially provided maintenance services at NAS Fallon with a separate maintenance organization for each squadron and then changed to a consolidated approach. The record shows that Lockheed changed its approach at the Navy's request and that Lockheed's contract was amended to reflect this change. This does not demonstrate, however, that the OPNAVINST 4790.2E requires separate contractor maintenance organizations for each squadron, as Lockheed asserts; it shows only that Lockheed's contract allowed it to perform using separate organizations and that the contract was modified at the Navy's request to provide for a consolidated approach. There was no request for a waiver or deviation from OPNAVINST 4790.2E, as would be expected if the consolidated approach were not allowed by that instruction.

[11]Lockheed also complains that it should have been specifically informed during discussions that a consolidated maintenance organization was acceptable. However, the Navy reasonably responds that Lockheed's baseline offer of separate maintenance organizations was acceptable and it was unaware of Lockheed's restrictive RFP interpretation.

services for the three squadrons. In addition, Lockheed offered in its streamlining recommendations numbered two, three, and four varying degrees of consolidation in the maintenance function for NAS Fallon; Lockheed's streamlining recommendation number four, which proposed to provide a consolidated maintenance organization for two of the three squadrons, offered the greatest amount of consolidation of maintenance services at NAS Fallon.

The Navy found that both offerors' baseline organizational approaches to performing the maintenance services at NAS Fallon were acceptable. The Navy also considered Lockheed's streamlining recommendations for consolidation. While the evaluators recommended not accepting Lockheed's streamlining recommendations, the SSO testified that, in performing his cost/technical tradeoff analysis and making his source selection, he gave positive consideration to Lockheed's streamlining recommendations numbered two and three, and the consequent price savings offered by these recommendations. Tr. at 303-06, 359-60. The SSO also testified that he did not consider Lockheed's streamlining recommendation number four because Lockheed's proposal conditioned acceptance of this recommendation upon the Navy's agreement that the agency would only have one contracting officer's representative and one maintenance monitoring team for those squadrons; the SSO states that this is an unacceptable condition to the agency. Tr. at 302-03. Thus, we find that, contrary to Lockheed's contentions, the Navy reasonably considered Lockheed's streamlining offers of consolidated maintenance at NAS Fallon.

Lockheed also challenges the SSO's cost/technical tradeoff that resulted in the selection of MDA's proposal for award.

Source selection officials have broad discretion to determine the manner and extent to which they will make use of the technical and cost evaluation results in negotiated procurements. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325. In deciding between competing proposals, cost/technical tradeoffs may be made, the propriety of which turns not on the difference in technical scores or ratings, per se, but on whether the selection official's judgment concerning the significance of that difference was reasonable and adequately justified in light of the RFP evaluation scheme. Wyle Labs., Inc.; Latecoere Int'l, Inc., 69 Comp. Gen. 648 (1990), 90-2 CPD ¶ 107. Accordingly, where, as here, cost is secondary to technical considerations, selection of a lower-priced, lower-rated proposal over a higher-rated proposal requires a showing that the agency reasonably concluded that the higher technical score did not reflect actual technical superiority, see Dayton T. Brown, Inc., B-229664, Mar. 30, 1988, 88-1 CPD ¶ 321, or that the agency reasonably concluded that the higher-rated proposal's technical superiority was not worth the cost premium. See Wyle Labs., Inc.; Latecoere Int'l, Inc., supra.

The record shows that the SSO reviewed Lockheed's and MDA's proposal ratings under each factor and subfactor to judge whether there was "real technical merit" and "value" reflected in Lockheed's superior technical rating. For each subfactor, the SSO sought some value or benefit to the government for a proposal's particular rating. In this regard, the SSO testified that he found value:

> "where I see a real benefit to the government, either in efficiencies or over into a manufacturing environment. If I would see things that were going to really preclude rework or provide better reliability, those types of--I go looking for benefit. I believe that if we are going to pay [a] price premium we certainly have to be able to put our hands around and defend what the benefit is we are going to get for that price premium." Tr. at 314-15

Based on his review, the SSO determined that there was not "a great distinction between the technical merit of the two offerors," which would justify the payment of a very substantial price premium. Tr. at 280.

For example, the SSO reviewed the offerors' proposal ratings under the most important quality/safety subfactor (under which Lockheed's proposal was rated outstanding and MDA's highly satisfactory) and found that the identified strengths for Lockheed's proposal did not demonstrate any significant technical superiority over MDA's proposal. Tr. at 308-09. Specifically, the TET's rating of outstanding for Lockheed's proposal under this subfactor was based upon Lockheed's reported 146,000 accident-free flight hours under a similar contract, receipt of Chief of Naval Operations safety awards, and low personal injury rates. The SSO believed that the TET had given Lockheed excessive credit under this subfactor for the accident-free flight hours and safety awards because accident-free flight hours are based on a number of factors, including some that have nothing to do with good maintenance services, e.g., good pilots, mission planning, communications, and weather, and because safety awards are based upon having accident-free flight hours. Tr. at 309-10. In reviewing MDA's rating under this subfactor, the SSO noted MDA's corporate commitment to oversight of quality and safety. Tr. at 310. In the SSO's judgment, there was not a great deal of difference in the performance Lockheed and MDA would provide under this subfactor. Id.

The SSO also compared the firms' ratings under the personnel subfactor, for which Lockheed's proposal was rated as outstanding while MDA's was rated as satisfactory. The SSO believed that Lockheed's proposal advantage under this subfactor largely represented an incumbent's advantage, whereas MDA's lower rating reflected the fact that three of MDA's key personnel resumes did not demonstrate the specified experience. Tr. at 315. The SSO concluded from the resources available to MDA that the firm could cure any deficiency in its key personnel. Tr. at 316. The SSO credited Lockheed's proposal for its proposed personnel but concluded that Lockheed's advantage under this subfactor did not justify the payment of a substantial price premium. Based on review, we cannot find this judgment was unreasonable.

As another example, the SSO reviewed the firms' ratings under the past performance subfactor, for which Lockheed's proposal was rated as outstanding while MDA's was rated as satisfactory. Lockheed's outstanding rating was based upon the firm's specific experience as the incumbent, while MDA's rating reflected the evaluators' views that while MDA had specific and strong experience with the F/A-18 aircraft--one of the aircraft to be maintained and for which MDA was the original equipment manufacturer--MDA otherwise did not demonstrate direct relevant experience. The SSO credited Lockheed for its experience as the incumbent, but believed that MDA's rating should have been more than merely satisfactory. Tr. at 321-22. Specifically, the SSO was aware that MDA had performed "a lot of [similar] aircraft maintenance, aircraft logistics, aircraft overhaul type of work for the Navy," Tr. at 322, although not with the majority of the specific aircraft to be maintained under this contract. Tr. at 323. In other words, the SSO essentially provided greater credit to MDA's proposal under the past performance subfactor than did the evaluators and Lockheed has not shown this to be unreasonable.

In sum, we find that the SSO properly considered Lockheed's superior technical rating, assessing the extent to which the ratings reflected actual technical superiority and then weighing that assessment against the price premium associated with Lockheed's proposals. As noted above, the SSO, in performing his cost/technical tradeoff, also credited Lockheed with the substantial price savings reflected in Lockheed's acceptable streamlining suggestions, which reduced MDA's price advantage to approximately $6 million, but still concluded that Lockheed's higher technical rating did not justify the payment of so large a price premium. While Lockheed asserts that the SSO did not consider the evaluators' views that separate maintenance organizations were superior to a consolidated organization,[12] the record shows that the SSO was aware of the evaluators' views concerning this issue, but himself believed that a consolidated maintenance organization offered advantages of flexibility and efficiency over a separate maintenance organization. Tr. at 290-91. Lockheed's disagreement with the SSO's judgment concerning the

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[12]The record shows that the majority of the evaluators believed that separate maintenance organizations were superior. Tr. at 263-264. The record also evidences that no significant evaluation credit or discredit was given to MDA for proposing a consolidated maintenance organization at NAS Fallon or to Lockheed for proposing separate maintenance organizations. Tr. at 265-267.

respective merit of the two firms' proposals does not show that the SSO's determination to select the MDA's lower-priced proposal, notwithstanding Lockheed's proposal evaluated technical superiority, was unreasonable.

The protest is denied.

Comptroller General
of the United States