Comptroller General
of the United States

Washington, D.C. 20548

Decision

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Matter of: NavCom Defense Electronics, Inc.

File: B-276163

Date: May 19, 1997

Richard B. Oliver, Esq., McKenna & Cuneo, L.L.P., for the protester.
Scott T. Spear, Esq., Gorham & Gorham, for Integrity Air Services, Inc., an intervenor.
Clarence D. Long, III, Esq., and Capt. Sheila Isbell, Department of the Air Force, for the agency.
Linda S. Lebowitz, Esq. and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's evaluation of the offerors' performance, and the source selection decision based upon that evaluation, was not reasonable where the agency evaluated the protester and the awardee as each being of low performance risk under the performance evaluation criterion without the record containing any basis upon which the agency could reasonably have determined that the awardee's demonstrated performance was, in accordance with the terms of the solicitation, the "same" as or "similar" to the solicitation requirements for which the protester was the incumbent contractor.

DECISION

NavCom Defense Electronics, Inc. protests the award of a contract to Integrity Air Services, Inc. under request for proposals (RFP) No. F09603-95-R-81729, issued by the Department of the Air Force for the repair of multiple line items of the AN/ARN-118 TACAN (Tactical Air Navigation) system. NavCom challenges the agency's assignment of a low performance risk rating to Integrity which served as the basis for the agency's decision to award to Integrity at a lower price.

We sustain the protest.

The TACAN system is a navigational system which provides pilots and flight control systems with navigational data, including bearing, range distance, velocity, course deviation, and audio identification information from a selected ground-based or airborne TACAN station. The TACAN system consists of the following five major components: (1) a radio receiver/transmitter; (2) a radio receiver/transmitter

control; (3) a digital to analog adapter; (4) an antenna; and (5) a mount. The radio receiver/transmitter, control, and adapter contain numerous circuit cards and modules. The TACAN system has more than 15,000 components, with the RFP requiring the repair of 104 line items of various components.

The RFP, issued as a total small business set-aside, contemplated the award of a firm, fixed-price contract for the base year and four 1-year option periods to the offeror whose proposal represented the best value to the government pursuant to a performance/price tradeoff. The RFP stated that the two evaluation factors--performance and price--were considered of equal importance.[1] Regarding the evaluation of an offeror's past and present performance, the RFP required offerors to submit information for current and completed contracts for "the same or similar efforts specified in the [RFP]." The RFP explained that the performance risk assessment "represents the Government evaluation team's judgment of the probability of an offeror successfully accomplishing the proposed effort based on the offeror's demonstrated present and past performance." In evaluating an offeror's performance, the agency's performance risk assessment team would consider the performance information provided by the offeror, along with responses to questionnaires sent to program managers and other relevant contracting officials. Regarding price, the RFP stated that the extended prices for the basic and option quantities would be added together to arrive at the offeror's total evaluated price.

The RFP stated that all technically acceptable offerors would be ranked by evaluated price, and then would receive a performance risk assessment rating of low, moderate, high, or not applicable. According to the RFP, if the lowest evaluated price, technically acceptable offeror received a low performance risk rating, then this offeror's proposal would be considered to represent the best value to the government and award would be made to this offeror. The RFP stated that the agency reserved the right to award a contract to other than the technically acceptable, lowest evaluated price offeror if that offeror was considered to have a moderate, high, or not applicable performance risk rating.

Eight small business concerns, including NavCom, the incumbent contractor, and Integrity, which had experience in repairing radio power supplies, submitted performance information and price proposals. In accordance with the evaluation scheme described above, the offerors were ranked according to price. Integrity was ranked first (at a total price of $[deleted]) and NavCom was ranked fourth (at a total price of $[deleted]). All offerors received low performance risk ratings.

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[1]The RFP did not require the submission of technical proposals. According to the RFP, any offeror determined to be responsive and responsible was considered technically acceptable.

Following the clarification of proposals and the submission of best and final offers (BAFO), the contracting officer determined that since Integrity submitted the lowest price and received a low performance risk rating, its proposal represented the best value to the government.

NavCom, the incumbent contractor for the repair of the TACAN system, challenges the agency's evaluation of Integrity's performance, contending that Integrity's experience in repairing radio power supplies is not for "the same or similar efforts specified in the [RFP]." For this reason, NavCom, which received a low performance risk rating, maintains that Integrity should have received a performance risk rating of other than low, thereby requiring the agency to perform a performance/price tradeoff to determine which offeror's proposal represented the best value to the government, rather than determining NavCom and Integrity essentially equal in terms of performance risk and awarding to Integrity based on its low price.

In reviewing a protest challenging the agency's evaluation of proposals, we examine the record to ensure that the agency's evaluation was reasonable and consistent with the stated evaluation criteria. Ogden Support Servs., Inc., B-270012.2, Mar. 19, 1996, 96-1 CPD ¶ 177 at 5. Here, absent any basis in the record for the agency's conclusion that Integrity's repair of radio power supplies was the "same" as or "similar" to the RFP requirements, we cannot conclude that the agency reasonably assigned the same low performance risk rating to Integrity as it assigned to NavCom, the incumbent contractor.

The RFP required offerors to submit information for current and completed contracts for "the same or similar efforts specified in the [RFP]." Based on the agency's evaluation of this information, offerors were assigned a performance risk rating of low, moderate, high, or not applicable, corresponding to the agency's assessment "of the probability of an offeror successfully accomplishing the proposed effort based on the offeror's demonstrated present and past performance." Integrity submitted information showing that it performed four contracts involving the repair of radio power supplies, which are components providing internal radio operating voltages. Repair of power supplies required a knowledge of direct and alternating current circuitry. The total value of each of Integrity's contracts was significantly less than $1 million. As evident from the schedule in the RFP, and as confirmed by the agency, power supplies are not a line item for repair under this RFP. In contrast, the contractor for the repair of the TACAN system must possess knowledge of not only direct and alternating current circuitry, but also of analog and digital signals, timing networks, high frequency networks and electronics, pulsed electronics, pulse width decoding, synchro technology, built-in test circuitry, operation of the system's bearing and distance measurement signals, radio receiving technology, and pulsed transmission technology. NavCom's prior contract was valued at more than $8 million.

Concerning the requirement that offerors have experience in performing the "same or similar" efforts specified in the RFP, that is, the repair of various components of the TACAN system exclusive of power supplies, the agency states that the performance risk assessment team

> "was fully aware of the protester's past satisfactory experience with the [AN/]ARN-118 TACAN repair effort. Likewise, the team was fully aware that the remaining offerors did not have actual experience with the [AN/]ARN-118, nor had they performed past repair efforts of the size and magnitude of the instant effort and acquisition. Nonetheless, the evaluation team determined that the offeror[s'] past and present experience was relevant, and they reasonably assigned 'low-risk' ratings to each of the offerors."

Thus, of the eight firms competing under this RFP, the agency concedes that only NavCom had experience which could be characterized as the "same" as that required by the RFP, that is, the multi-million dollar repair of the TACAN system.

In addition, the record lacks any basis upon which the agency could reasonably have concluded that Integrity's repair of power supplies was "similar" to the repair of components of the TACAN system exclusive of power supplies. In this regard, the agency's performance risk assessment report references the RFP's "same or similar" effort requirement and notes that Integrity's prior performance was "relevant." However, other than listing contract numbers, contracting activities, contract values at award, and delinquency rates, the performance risk assessment report contains no analysis of the basis upon which the agency determined that Integrity's "relevant" experience was "similar" to the experience required to repair the TACAN system. Moreover, we do not find any support in the record for the low performance risk rating assigned to Integrity in light of information contained in the performance questionnaires completed for Integrity.

For example, one contracting officer for a contract for the repair of power supplies valued at a total of approximately $715,000 assigned a low performance risk rating to Integrity in responding to the question, "[b]ased on the contractor's performance record on this contract, [i.e., the power supply contract], how much risk would be involved in awarding future contracts to this contractor?" This rating, however, was qualified by the statement that "I [the contracting officer] believe that the risk in awarding a [contract] to this contractor would be minimal provided it was for a similar type and scope effort." Other individuals completing performance questionnaires for Integrity also raised concerns about the performance risk associated with Integrity performing future contracts based on its demonstrated prior performance. In discussing Integrity's experience repairing power supplies, the agency states that:

> "[t]he 'scope' issue is a factor to consider, but it is not controlling, especially when one considers the fact that this is a 100% small business set-aside. Very few small businesses have experience with contracts the size of the [AN/]ARN-118 TACAN effort; therefore, it becomes a question of policy whether to award contracts to small businesses in order to get them qualified and expand the contracting base."

While the agency's goal may be to expand the number of small businesses which can repair the TACAN system, the agency cannot disregard the terms of the RFP, as drafted, in evaluating an offeror's performance in terms of risk and in ultimately making its source selection decision based upon that underlying evaluation.[2]

In summary, only NavCom had experience which was the "same" as that required by the RFP. There is no analysis in the record to support a conclusion that Integrity could reasonably have been determined to have had experience "similar" to the requirements in the RFP, or how in light of Integrity's demonstrated prior performance, reflected in the completed performance questionnaires, the firm was reasonably assigned a low performance risk rating. In the absence of any support in the record for the agency's assignment of the same low performance risk rating to both offerors, we cannot conclude that the award to Integrity was reasonable.

Accordingly, we sustain the protest. We recommend that if the RFP, as drafted, conveys the agency's needs, the agency reevaluate Integrity's performance in light of the "same or similar" requirement and document the basis for a particular performance risk rating. If Integrity is determined to be of other than a low performance risk, then the agency should make a performance/price tradeoff in accordance with the terms of the RFP. Depending on the results of that tradeoff, the agency should either continue the contract with Integrity or terminate Integrity's contract and award to NavCom. If the RFP, as drafted, does not convey the agency's needs, then we recommend that the agency amend the RFP and request new BAFOs. We also recommend that NavCom be reimbursed its costs of filing

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[2]The performance risk assessment report shows that the agency effectively waived the RFP's "same or similar" requirement for the other competing firms.

and pursuing its protest, including reasonable attorneys' fees. Bid Protest Regulations, 4 C.F.R. § 21.8(d)(1) (1997). NavCom should submit its certified claim for costs to the contracting agency within 60 days of receiving this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

Comptroller General
of the United States