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Decision

Matter of: DUCOM, Inc.

File: B-285485

Date: August 23, 2000

Lawrence J. Sklute, Esq., Sklute & Associates, for the protester.
Cyrus E. Phillips, IV, Esq., for Z Systems Corporation, an intervenor.
Joshua A. Kranzberg, Esq., and Wendy S. Saigh, Esq., Department of the Army, for the agency.
Tania Calhoun, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that contracting agency improperly evaluated protester's technical proposal based on unstated evaluation factors and failed to evaluate offers on a common basis or otherwise unreasonably evaluated proposals is denied where record shows the evaluation was reasonable and consistent with solicitation's evaluation factors.

DECISION

DUCOM, Inc. protests the award of a contract to Z Systems Corporation under request for proposals (RFP) No. DAAE07-00-R-M010, issued by the Department of the Army's Tank-Automotive and Armaments Command (TACOM) to acquire Total Package Fielding (TPF) support services. DUCOM primarily argues that the agency improperly evaluated its technical proposal based on unstated evaluation factors and failed to evaluate offers on a common basis.

We deny the protest.

New weapons systems are accompanied by logistics support, such as auxiliary vehicles, spare parts, test and support equipment, vehicles, and technical manuals. The range and quantity of this logistics support increases the difficulty of getting that support to the user unit at the same time as the weapons systems. RFP § C-2-1. The TPF process minimizes the workload of the unit receiving the new weapons system by gathering the end item and all required support into a single package. This process is governed by Army Regulation AR-700-142, "Materiel Release, Fielding and

Transfer” (AR 700-142) and Department of the Army Pamphlet 700-142, “Instructions for Materiel Release, Fielding and Transfer” (DA PAM 700-142).

The solicitation, issued January 5, 2000 as a small business set-aside, contemplated the award of a cost-plus-fixed-fee contract to be performed over 5 years. RFP §§ A-1, F-5. The weapons systems that will be served under this solicitation are the M2/3 Bradley Fighting Vehicle System and derivative vehicles, the M113 family of vehicles, and the M88A2 Hercules. RFP § C-2-1. Z Systems, the awardee here, is a major subcontractor to the incumbent contractor providing these services, and has proposed the incumbent contractor as its subcontractor here.

The solicitation set forth technical, cost, and past performance evaluation areas. RFP § M-4. The technical area was significantly more important than cost and past performance combined; cost was more important than past performance; and the technical and past performance areas combined were significantly more important than cost. Id. The technical area was comprised of four elements: sample problem, technical understanding, experience, and management. The first three elements were of equal importance, and the last element was significantly less important than the other three elements individually. RFP § M-4-1a. The Army planned to conduct a comprehensive evaluation to determine the proposal considered the best value to satisfy the government’s requirements and objectives at a reasonable, realistic, and affordable cost. RFP § M-1.

The Army received two offers by the February 10 closing date. The source selection evaluation board (SSEB) performed an initial evaluation of the offers in each area and included both in the competitive range. Discussions were conducted and final proposal revisions were submitted. The final evaluation results were as follows:

	Z-Systems	DUCOM
Technical	Excellent/Very Low Risk	Good/Low Risk
Sample Problem	Excellent/Very Low Risk	Adequate/Moderate Risk
Technical Understanding	Good/Low Risk	Good/Low Risk
Experience	Excellent/Very Low Risk	Good/Low Risk
Management	Excellent/Very Low Risk	Good/Low Risk
Evaluated Cost	\$11,962,409	\$10,070,760
Past Performance/ Small Business Participation	Excellent/Very Low Risk	Excellent/Very Low Risk
Past Performance Risk	Excellent/Very Low Risk	Excellent/Very Low Risk
Small Business Participation	Excellent/Very Low Risk	Excellent/Very Low Risk

The source selection authority (SSA) was briefed on the evaluation results and determined that the technical merits of Z Systems’ proposal, specifically in the sample problem, experience, and management elements, were significant enough to warrant the firm’s slightly higher estimated costs. The SSA believed that Z Systems’ proposal offered advantages that would significantly reduce the Army’s burden and risk, thereby increasing its ability to successfully field critical vehicle systems, while

the risk associated with DUCOM's proposal could require increased Army oversight and increased time associated with fielding delays, thereby increasing costs. Source Selection Decision at 6.

In its protest, DUCOM challenged each of the numerous disadvantages that the SSEB identified in its proposal with respect to each technical area element. DUCOM argued that the Army improperly evaluated its proposal using unstated evaluation criteria and improperly failed to evaluate proposals on a common basis, and that the Army otherwise unreasonably evaluated its proposal.

In reviewing protests against allegedly improper evaluations, it is not our role to reevaluate proposals. Rather, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the RFP's stated evaluation criteria. ESCO, Inc., B-225565, Apr. 29, 1987, 87-1 CPD ¶ 450 at 7. A protester's mere disagreement with the agency's conclusions does not render the evaluation unreasonable. Id.

The Army provided a detailed response to each evaluation challenge raised in DUCOM's protest. DUCOM's comments on the agency report specifically addressed just 2 issues, which involved only 6 of 20 disadvantages noted by the SSEB. Five of these disadvantages concerned the sample problem element, and one concerned the experience element. The protester asked our Office to decide the remaining issues on the basis of the existing record in accordance with our Bid Protest Regulations, 4 C.F.R. § 21.3(i) (2000). With respect to the issues to be decided on the record, we have reviewed the record and the Army's detailed explanations of its actions and conclude that there is no basis to find the evaluation unreasonable. Our discussion below addresses the issues specifically discussed by DUCOM in its comments as well as some examples of the issues decided on the record.

The sample problem listed a detailed scenario and requirements for the fielding of the M1109 improved bulldozer. RFP § L-14-3-1a. Given this scenario, and the solicitation's Mission Support Plan, the offeror was to provide a comprehensive approach to the preparation of four exhibits that showed its approach to: (1) preparing a Materiel Requirements List (MRL); (2) preparing a 60-day pre-fielding status report; (3) shipping the authorized stockage list package to the handoff location; and (4) preparing an after-action report. RFP § L-14-3-1b. The Army planned to evaluate the proposal risk that each offeror's proposed approach to satisfying the sample problem represented a complete, detailed and comprehensive proposed approach to the sample problem, as well as the probability that the proposed approach would satisfy the solicitation's requirements. RFP § M-4-1a(1).

DUCOM's proposal was rated adequate under this element. While the SSEB identified [DELETED] advantages in the proposal, it also identified [DELETED] disadvantages, most of which concerned DUCOM's failure to provide an array of information or its provision of inaccurate or conflicting information in the sample

problem exhibits. In contrast, the SSEB identified 15 advantages and 3 disadvantages in Z Systems' proposal, which was rated excellent.

The basis for DUCOM's challenges to five of these disadvantages--one concerning the MRL exhibit and four concerning the after-action report exhibit--was the firm's assertion that the RFP required the use of certain Army forms for these exhibits. DUCOM argued that the Army improperly downgraded the firm for failing to provide information not required by these forms, and improperly credited Z Systems for providing the information on customized forms. In its report, the Army disputed DUCOM's contention that the RFP required use of specific Army forms and argued that offerors were free to tailor the generalized forms in order to demonstrate a complete, detailed and comprehensive proposed approach to the specific details of the sample problem. In its comments on the agency report, DUCOM reiterated its initial allegation and provided supporting arguments.

This Office asked the Army to respond to the arguments set forth in DUCOM's comments. The Army provided detailed arguments as to the requirements for both the MRL exhibit and the after-action report exhibit. In its supplemental comments, DUCOM addressed the Army's arguments regarding the MRL exhibit, but was silent as to the Army's arguments regarding the other exhibit. Under the circumstances, we find that DUCOM has abandoned its position with respect to the after-action report exhibit and will not consider it.¹ Bridgeport Machines, Inc., B-265616, Dec. 6, 1995, 95-2 CPD ¶ 249 at 4 n.1. As a result, the question whether the RFP required offerors to use a specific Army form pertains to one disadvantage identified regarding DUCOM's MRL exhibit.

The MRL is a comprehensive list identifying all materiel and publications needed to support the fielding of a materiel system. AR-700-142 ¶ 4-8a. DUCOM's proposal was downgraded because its MRL exhibit did not address package markings and delivery date requirements. DUCOM contends that AR 700-142 and DA PAM 700-142, included as attachments to the RFP, require the use of Department of the Army (DA) Form 5682-R for the MRL, and since that form does not require information regarding package markings and delivery date requirements, its proposal should not have been downgraded for omitting this information. The Army's position is that the RFP did not require use of specific Army forms, and that DUCOM's proposal was properly downgraded for failing to provide the information in question.

Where a dispute exists as to the meaning of a solicitation requirement, we resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all provisions of the solicitation. See Lithos Restoration, Ltd., B-247003.2, Apr. 22, 1992, 92-1 CPD ¶ 379 at 4. To be reasonable, an interpretation must be consistent

¹ In any event, the record shows that DUCOM's problems with this exhibit did not result from its use of the Army form. See Army Supplemental Report at 3-5.

with the solicitation when read as a whole and in a reasonable manner. Id. Here, DUCOM's interpretation of the Army regulation and pamphlet is unreasonable.

Technical proposals were required to "describe how the Offeror proposes to meet all [the] requirements set forth in Section C" of the RFP. RFP § L-14-3. Section C-2-3 of the RFP stated that "the Contractor shall develop and maintain [an MRL] in accordance with AR 700-142 and DA PAM 700-142." Hence, the solicitation required that the MRL exhibit be prepared in accordance with the regulation and pamphlet, which were included as attachments to the solicitation.

Paragraph 4.8a of the regulation states:

The MRL is compiled on DA Form 5682-R . . . This form may be locally reproduced or automated, provided that the necessary information is included. The [fielding command] may adjust spacing on the form to meet the requirements of each fielding, but should insure all DA Form 5682-R data elements are included. The MRL will be included as part of the materiel requirements coordination package.

Paragraph 3-12 of the pamphlet states:

Coordination packages will be developed using DA Form 5682-R . . . Another automated form containing this information may be used if it is acceptable to the [command receiving the weapons system].

In our view, when the language of the regulation and pamphlet are read together, it is unreasonable for DUCOM to assert that an MRL must be prepared on DA Form 5682-R. Such an interpretation would render meaningless the clear instruction that another automated form could be acceptable, provided that all of the data elements on DA Form 5682-R are included in the new form. The language in the pamphlet cannot, as DUCOM suggests, be ignored. The pamphlet is specifically intended to explain the procedures set forth in the regulation, DA PAM 700-142, at i, and the RFP requires that the MRL be prepared in accordance with both the regulation and the pamphlet. RFP § C-2-3. The only reasonable interpretation of the solicitation was that DUCOM was free to use the form--as it did--or to create a tailored form if it felt it necessary to demonstrate its complete, detailed, and comprehensive proposed approach to the sample problem--as Z Systems did.

As to whether it was reasonable for the Army to downgrade DUCOM's proposal for failing to providing the information at issue, the Army reports that package markings and required delivery dates are key data that identify where to ship items and when those items need to be there. While DUCOM included this information on the call

forward letter that it prepared for the sample problem's exhibit three,² the Army states that this information should also be on the MRL because it identifies how packages will be marked when shipped and when the user can anticipate delivery. Without this information, the parts can be lost or misplaced at the receiving station. In the absence of any argument from DUCOM to the contrary, we have no basis to find the Army's evaluation unreasonable.

DUCOM's remaining challenges concerning the sample problem exhibits are unrelated to the issue of forms and amount to assertions that the evaluation was unreasonable. As noted above, most of the disadvantages identified by the SSEB stemmed from DUCOM's failure to provide information or its provision of incorrect information. We have reviewed each challenge along with the Army's response and the record and conclude that there is no basis to find any aspect of the evaluation unreasonable.

Several of the disadvantages resulted from DUCOM's failure to provide information to demonstrate a complete, detailed, and comprehensive approach to the sample problem. For example, the SSEB downgraded DUCOM's proposal because it failed to properly identify the [DELETED] in its MRL exhibit. [DELETED] is one of the necessary data elements for the MRL, and DUCOM's entry in that data field for technical manuals simply stated [DELETED]. See, e.g., DUCOM Proposal Figure 2-1, at 4. The Army states that this method of identification fails to specify whether the manual is an operator's, maintenance, parts, or other type of manual. Since one function of the MRL is to identify the quality and type of technical manuals issued to a unit, a general list such as this would not be sufficient. The SSEB also downgraded DUCOM's proposal because it failed to [DELETED] letter included in its exhibit three for the sample problem. The Army explains that [DELETED] are very important on such a letter because ample time must be allotted to the depot for perform various actions. Based on the [DELETED] set forth in the Mission Support Plan, DUCOM should have [DELETED] its letter to correspond to the appropriate timeframe. Since its letter was [DELETED], the Army was unable to determine when DUCOM prepared the letter and whether the firm knew the correct timeframe to meet the handoff date requirement. DUCOM has provided us no basis to conclude that the Army's evaluation was unreasonable.

In the context of these and several other disadvantages, DUCOM complains that the information at issue was not required by the solicitation. However, given the performance-based nature of this contract, the solicitation did not specify particular procedures to be used but left it to each offeror to propose its own approach to the

² Exhibit three required the offeror to show its approach to shipping the authorized stockage list package to the handoff location. RFP § L-14-3-1b. The "call forward" letter is part of the documentation prepared for the shipping directive. See DUCOM Discussion Item Technical 4, at 3.

statement of work and the sample problem. The RFP specifically advised that proposals had to demonstrate a complete, detailed, and comprehensive approach to the sample problem so the Army could ascertain the proposal risk of each offeror's approach. RFP § M-4-1a(1). The Army evaluated the responses and assigned a higher score to solutions that reflected superior expertise and understanding. We would find it unreasonable to presume, as DUCOM apparently does, that a minimally detailed solution would reflect the same level of expertise and understanding as a more detailed solution or that it would receive the same score. NDI Eng'g Co., B-245796, Jan. 27, 1992, 92-1 CPD ¶ 113 at 7. The Army therefore had a reasonable basis for downgrading DUCOM's proposal in these areas.³ Simms Indus., Inc., B-252827.2, Oct. 4, 1993, 93-2 CPD ¶ 206 at 5.

Several other disadvantages resulted from DUCOM's provision of incorrect information in its exhibits. For example, DUCOM's proposal was downgraded because its MRL exhibit listed an [DELETED]. In addition, the firm's call forward letter, included as part of exhibit three, contained an incorrect [DELETED]. In its protest, DUCOM essentially argued that these failures were unimportant because they would be corrected during the actual TPF process through government oversight.

We agree with the Army that this response indicates DUCOM's failure to understand the importance of providing the government with high-quality, error-free performance and that such errors committed during the actual TPF process could have adverse consequences. An incorrect [DELETED] could result in materiel being shipped to the wrong place, requisitions being rejected, and confusion in the fielding process. As the Army points out, errors anywhere in the process are easily perpetuated and not easily detected, so it is essential that the data is loaded and documents are prepared accurately from the very beginning. The Army refutes DUCOM's assertion that an incorrect LIN is not important; the Army asserts that the LIN is the basis for authorizing and having vehicles and key subsystems on hand in the unit and can lead to the use of an incorrect national stock number and receipt of an incorrect vehicle or assembly. As the Army states, if DUCOM cannot provide accurate data in its proposal, there is no way to verify that the firm can perform the contract requirements successfully after award.

Turning to the experience element, offerors were required to describe their corporate experience, skill, background, and knowledge, and that of any proposed team member or subcontractor relative to the performance of the statement of work.

³ The disadvantages identified by the SSEB with respect to the technical understanding element also resulted from DUCOM's failure to provide complete information regarding such things as the advantages of [DELETED]. DUCOM has provided us with no basis to conclude that the Army's evaluation, supported by detailed explanation in the agency report, was unreasonable.

RFP § L-14-3-3. The Army planned to evaluate this information to assess the probability of successful performance of the TPF requirements of this solicitation; “[t]he quality and quantity of specific TPF experience directly applicable to this contract [was] especially important.” RFP § M-4-1a(3).

DUCOM’s proposal was rated good under the experience element. The SSEB noted that the offeror had many years of experience performing TPF for Army systems. DUCOM, as the subcontractor to General Dynamics, was presently providing TPF support for M1 Abrams tank fieldings, and General Dynamics was proposed as DUCOM’s subcontractor here. In addition, DUCOM had TPF experience with two of the three vehicle systems at issue here in the foreign military sales (FMS) arena, but FMS fieldings tend to be limited in size and scope compared to U.S. Army fieldings. The SSEB concluded that while the offeror had many years of varied TPF experience, its actual experience was limited on the vehicles at issue here and the likelihood of achieving successful performance was lowered. DUCOM’s Final Evaluation Worksheet. In contrast, Z Systems’ proposal was rated exceptional under the experience element. The SSEB noted that Z Systems’ subcontractor was the incumbent contractor providing TPF support for the vehicles at issue here, and that Z Systems was that firm’s major subcontractor. As a result, both firms had direct and successful experience with these vehicles. Z Systems’ Final Evaluation Worksheet.

DUCOM incorrectly argues that the Army improperly failed to give it full credit for its more than [DELETED] years of experience. The offeror was credited for its “many years” of TPF experience, but the Army deemed that the type of experience it had was less relevant than that of Z Systems. DUCOM does not dispute the Army’s assertion that the firm’s FMS experience was less relevant because the size and scope of FMS fieldings are much smaller than that of U.S. Army fieldings. Moreover, the offeror’s U.S. Army experience was not with the vehicles at issue here, but with the M1 Abrams tank. The Army asserts that, in contrast with the M1 Abrams, the fieldings of each of the three vehicle systems at issue here are unique, requiring different support packages and the maintenance of numerous databases to support these varied fieldings. DUCOM’s assertion that TPF is a process and that the type and quantity of equipment that must be supported makes no difference ignores the RFP’s specific instruction that the “quality and quantity of specific TPF experience directly applicable to this contract is especially important” in the evaluation. RFP § M-4-1a(3). Under the circumstances, DUCOM has provided no basis to conclude that the Army’s evaluation here was unreasonable.

The protest is denied.

Robert P. Murphy
General Counsel