



Decision

Matter of: Armacel Armor Corporation

File: B-400239.2

Date: October 22, 2008

David Fernandez, Armacel Armor Corporation, for the protester.
Lynne Georges, Esq., and Marlene Surrena, Esq., Defense Logistics Agency, for the agency.
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DIGEST

Protest that agency's evaluation and source selection decision were flawed is denied where record shows that the agency's evaluation and source selection were reasonable and consistent with the solicitation's evaluation factors.

DECISION

Armacel Armor Corporation protests the award of a contract to ArmorWorks Enterprises, LLC under request for proposals (RFP) No. SPM1C1-07-R-0077, issued by the Defense Logistics Agency (DLA), Defense Supply Center Philadelphia, for a component of personal armor called Enhanced Side Ballistic Inserts (ESBI).¹ Armacel primarily objects to the agency's evaluation of proposals and the source selection decision.

We deny the protest.

The RFP was issued June 8, 2007 as a small business set-aside and contemplated the award of a fixed-price, indefinite-delivery/indefinite-quantity (ID/IQ) contract for a base year and two 1-year option periods. Award was to be made on a "best value" basis, considering price and four non-price evaluation factors, which the RFP identified as: product demonstration model(s), past performance/experience, surge

¹ The ESBI is worn by ground troops and provides enhanced ballistic protection from specific ammunition rounds. Agency Report (AR), Tab 18, Purchase Description.

and sustainment capability, and DLA mentoring business agreements. RFP at 69. For the product demonstration model evaluation factor, offerors were required to submit a sample, essentially, to be tested and assessed regarding the sample's compliance with four requirements, which were identified as subfactors. These subfactors were titled visual requirements, dimensional requirements, ballistic requirements, and weight requirements. Id.

With respect to the DLA mentoring agreement program, the RFP advised that proposals would be compared to each other and ranked. These rankings were based on an assessment of whether the proposal demonstrated a strong commitment to mentoring small businesses, small disadvantaged business, or women-owned small businesses, veteran-owned small businesses and service disabled veteran-owned small businesses. RFP at 72. The RFP also explained that the non-price evaluation factors were, collectively, significantly more important than price, but to the extent that proposals were found closer to equal, price would become more important. RFP at 69.

The agency received six proposals by the August 2, 2007 closing date. The technical evaluation results for the proposals rated technically acceptable were as follows:

	ARMACEL	ARMORWORKS	OFFEROR A
Product Demonstration Model ²	Very Good	Very Good	Satisfactory
Past Performance /Experience	Very Good	Satisfactory	Satisfactory
Surge Capability	Marginal	Satisfactory	Satisfactory
DLA Mentoring	Did Not Submit	1 ³	Did Not Submit
Overall Rating	Satisfactory	Satisfactory	Satisfactory
Price	\$57.1 million	\$40.0 million	\$40.2 million

Contracting Officer's (CO) Statement at 3.

² Both ArmorWorks and Offeror A submitted more than one sample for assessment. The four samples submitted by ArmorWorks were rated: very good, satisfactory, very good and very good. AR Tab 4, Price Negotiation Memo at 5.

³ Despite the RFP's indication that offerors would be ranked under the DLA mentoring business agreements evaluation factor, RFP at 72, the evaluators did not rank proposals in this area. Instead, offerors that submitted a mentoring plan received a rating of "1" and offerors who did not submit a plan were evaluated "did not submit." AR, Tab 4, Price Negotiation Memo, at 26. Armacel did not challenge this deviation from the stated evaluation scheme.

The source selection authority (SSA) reviewed the evaluation results and noted that Armacel was considered technically superior under the product demonstration model evaluation factor, notwithstanding the same adjectival rating of very good for both firms. Armacel was also rated higher under the past performance/experience evaluation factor. ArmorWorks was rated higher under the third and fourth evaluation factors—surge and sustainment capability, and DLA mentoring business agreements. Overall, the SSA concluded that while Armacel’s proposal reflected a “slight technical advantage” the lower price offered by ArmorWorks represented the best value to the government. AR, Tab 10, Source Selection Decision Document, at 8.

By letter dated June 5, Armacel was notified that ArmorWorks was the proposed awardee, and Armacel was given an opportunity to challenge the small business size status of ArmorWorks. On June 6, Armacel raised that challenge, and by letter dated June 17, 2008, the Small Business Administration (SBA) dismissed Armacel’s size protest for lack of evidence. Armacel was notified of the award to ArmorWorks on July 3. Armacel received a debriefing on July 10 and filed this protest on July 18.

Armacel essentially argues that the agency unreasonably evaluated Armacel’s and ArmorWorks’ proposals and failed to perform a proper best value determination.⁴

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.

With respect to the evaluation of ArmorWorks’ proposal, Armacel contends that ArmorWorks received a “very good” rating for past performance/experience

⁴ Armacel also protests the small business size status of ArmorWorks. As previously stated, the SBA dismissed Armacel’s size status protest by letter dated June 17, 2008. The record also shows that by letter dated December 28, 2007, the SBA determined that ArmorWorks was small. AR, Tab 17, SBA Size Determination. The Small Business Act, 15 U.S.C. § 637(b)(6), gives the SBA, not our Office, conclusive authority to determine matters of small business size status for federal procurements. We therefore will not review a protester’s challenge to another company’s size status, nor will we review a decision by the SBA that a company is, or is not, a small business for purposes of federal procurements. Bid Protest Regulations, 4 C.F.R. § 21.5(b)(1) (2008); Randolph Eng’g Sunglasses, B-2800270, Aug. 10, 1998, 98-2 CPD ¶ 39 at 3.

notwithstanding the fact that ArmorWorks has had past performance issues with respect to timely delivery of ESBI.

The record shows, as indicated above, that ArmorWorks received an overall rating of “satisfactory” under the past performance/experience evaluation factor, not a rating of “very good” as the protester contends. The agency recognized that ArmorWorks had extensive experience producing the ESBI and was currently producing these items, but also noted that ArmorWorks had, in the past, experienced production issues that caused testing failures and late deliveries. AR, Tab 10, Source Selection Decision, at 6. We have no basis to question the agency’s evaluation of ArmorWorks’ proposal as satisfactory under the past performance/experience factor, especially given the agency’s recognition of certain problems in the awardee’s past performance, and its decision that the company’s past performance, while meriting a rating of satisfactory, could not be given one of the higher ratings—like the rating of very good given the protester for its past performance.

Armcel next protests the evaluation of its own proposal under the product demonstration model and past performance/experience evaluation factors.

As indicated above, the record shows that Armcel’s proposal was rated “very good” under both of the evaluation factors Armcel challenges—the product demonstration model and the past performance/experience evaluation factors. The record also shows that the agency considered Armcel’s proposal to be superior to ArmorWorks’ proposal under both factors. Nonetheless, Armcel argues that it should have received ratings of “exceptional” under both of these evaluation factors.

The RFP defined an “exceptional” rating under the product demonstration model evaluation factor as an assessment that the sample submitted had no deficiencies. RFP at 71. Armcel’s sample did not satisfy all the specifications in that the evaluators determined that the submitted item did not comply with the thickness level requirement.⁵ Thus, in accordance with the RFP, Armcel could not be rated “exceptional” for this evaluation factor. We therefore have no basis to question the reasonableness of the agency’s evaluation of “very good” for the product demonstration model evaluation factor. Moreover, the agency always viewed Armcel’s proposal as superior to ArmorWorks’ proposal under both the product demonstration model and the past performance/experience evaluation factors; the agency also viewed the above-described deficiency as one that could be easily corrected.

⁵ During the course of this protest, the agency concluded that two noted deficiencies involving the protester’s departure from dimensional requirements and ballistic requirements were no longer deficiencies. Agency’s September 10, 2008 Rebuttal Comments. Thus, we are addressing the only remaining deficiency identified with the sample submitted by Armcel.

Similarly, with respect to the past performance/experience evaluation factor, the RFP provided that in order to be rated “exceptional” an offeror had to demonstrate that it had extensive experience with items of a similar kind and complexity, and that it has a record of past performance with few minor problems. As stated above, Armacel was rated “very good” under this evaluation factor. The agency noted that Armacel had never manufactured the ESBI but had manufactured a similar item, and also noted that although the protester had problems in the past making timely deliveries, the agency’s view was that the protester had successfully resolved those problems. On this record, we have no basis to question the reasonableness of the agency’s rating of Armacel’s proposal as “very good” under the past performance//experience evaluation factor.

As stated earlier, the agency concluded that Armacel submitted the superior technical proposal in this competition, but also concluded that Armacel’s technical advantage did not justify a price premium of 42.6 percent over the price of the ArmorWorks proposal. In short, the agency always recognized Armacel’s technical advantages, but given Armacel’s significant price premium coupled with its “marginal” rating for the surge factor, the agency determined that Armacel’s proposal did not represent the best value to the government.⁶ We see no basis to question the agency’s evaluation conclusions, or its determination that the proposal submitted by ArmorWorks provided the best value to the government.

The protest is denied.

Gary L. Kepplinger
General Counsel

⁶ We note that Armacel does not challenge its evaluation under the surge evaluation factor which was rated “marginal” because the agency determined that Armacel failed to demonstrate that they had the ability to manufacture the surge requirement or that they had or could obtain sufficient equipment, facilities, materials and personnel to satisfy the surge requirements.