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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

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Decision

Matter of: Mathews Associates, Inc.

File: B-295764; B-295764.2

Date: April 20, 2005

William M. Weisberg, Esq., Sullivan & Worcester LLP, for the protester.
Vera Meza, Esq., and John J. Reynolds, Esq., U.S. Army Materiel Command, for the agency.
Scott H. Riback, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging elimination of proposal from competitive range is denied where record shows agency reasonably found proposal technically unacceptable based on evaluation consistent with terms of solicitation.

DECISION

Mathews Associates, Inc. (MAI) protests the elimination of its proposal from the competitive range under request for proposals (RFP) No. W15P7T-04-R-C005, issued by the Department of the Army to acquire lithium manganese dioxide batteries. MAI argues that the agency miscalculated its proposal.

We deny the protest.

The solicitation contemplated the award, on a “best value” basis, of up to two indefinite-delivery/indefinite-quantity contracts for a base year, with four 1-year options, to furnish five different lithium manganese dioxide batteries. Offerors were advised that the agency intended to split the total projected requirement, with 60 percent of the requirement limited to domestic sources and the remaining 40 percent open to all prospective sources. The RFP further advised that the agency would evaluate proposals giving consideration to price and two non-price criteria—a technical factor and a performance risk factor, with the former being significantly more important than the latter, and the latter being slightly more important than price. Within the technical factor there were four subfactors: battery performance, battery safety (these two subfactors were equal in importance and significantly more important than the third subfactor), production (this subfactor was significantly more important than the fourth), and small business participation. Proposals had to

receive at least an acceptable rating under each of the technical subfactors in order to be considered for award.¹

The agency received and evaluated numerous proposals, including MAI's. The agency rated MAI's proposal unacceptable under each of the four technical subfactors, and also assigned it a moderate performance risk rating. Based on these evaluation results, MAI's proposal was eliminated from the competitive range. During a subsequent debriefing, the agency advised MAI that its proposal was evaluated as containing 17 deficiencies or weaknesses.

MAI alleges generally that the agency was largely incorrect in its evaluation conclusions; MAI maintains that its proposal in fact included all necessary information and that the agency either did not read the proposal or otherwise failed to glean the information presented. In support of its protest, MAI furnished a "compliance matrix" that lists each of the deficiencies or weaknesses identified by the agency, and presents corresponding narratives and references to its proposal that it maintains demonstrate that the agency's evaluation conclusions are incorrect.

In its agency report, the Army provided a detailed, point-by-point response that it maintains establishes that its evaluation conclusions were reasonable and supported by the record; the principle theme of the agency's response is that MAI failed to include adequate information in its proposal to demonstrate its understanding of the agency's requirements.

In its comments responding to the agency's detailed report, MAI merely reiterates (and incorporates by reference) the position stated in its initial protest, namely, that the agency failed to correctly understand the firm's proposal for the reasons outlined in the "compliance matrix."

We have reviewed the record with respect to each of MAI's allegations and find no basis for questioning either the agency's evaluation conclusions or its detailed explanation of its findings. Where, as here, a protester advances arguments to which the agency responds in detail, and the protester offers no rebuttal, there generally is no basis for our Office to question the agency's evaluation findings. Industrial Property Mgmt., B-291336.2, Oct. 17, 2003, 2003 CPD ¶ 205 at 5. We discuss two illustrative examples below.

¹ The agency used a color-coded/adjectival rating system, assigning proposals ratings of blue/outstanding, green/good, yellow/acceptable, pink/susceptible of being made acceptable, or red/unacceptable. In evaluating performance risk, the agency assigned color-coded/adjectival ratings of blue/low risk, yellow/moderate risk, red/high risk, or pink/unknown risk.

The record shows that the agency evaluators found MAI's proposal deficient for failing to include any discussion of the design and operation of the battery's state of charge indicator (SOC); this led, in large measure, to the proposal's unacceptable rating under the battery performance subfactor. The RFP required, in this regard, that proposals include the following information:

For the design proposed for the BA-X590 [battery] the offeror shall discuss the key design parameters as they pertain to the battery's ability to meet the following requirements as defined [in an attached military specification] and any exceptions included in this solicitation:

b. The proposed design and operation of the State of Charge Indicator for the BA-X590.

RFP, attach. 19, at 4. The RFP further provided as follows in describing the evaluation factors:

The proposed SOC design for the BA-X590 will be evaluated for its accuracy and ease of operation/interpretation.

The thoroughness and completeness of the methodology presented which was used to develop the proposed design shall also be considered, as well as the procedures used to validate the conclusions.

RFP, attach. 20, at 4.

MAI's proposal, in its entirety with respect to the SOC, states only that "[deleted]." Agency Report (AR), exh. 7, at I-4. The proposal then [deleted]. The evaluators found this aspect of the MAI proposal inadequate and assigned it a deficiency, stating:

The proposal does not discuss the design and operation of the SOC as required in Section L [of the RFP]. Other than stating that the SOC uses Liquid Crystal Display (LCD) to display the capacity and the number of capacity ranges, there is no other SOC design information that would allow the evaluators to review the proposal as specified in Section M [of the RFP].

AR, exh. 8, at 3. In the agency's report responding to the protest, the source selection evaluation board chairman expanded on the findings of the evaluators, noting that the MAI proposal did not include any information relating to the key design parameters or the operation of MAI's proposed SOC; included no information that would allow the agency to evaluate the accuracy or ease of the SOC's operation; and contained no information that would allow the evaluators to determine even the basic design of the SOC. AR, exh. 2, at 3.

MAI has presented no rebuttal to the agency's position on this aspect of the evaluation, and we find no basis to conclude that the evaluation was unreasonable or inconsistent with the terms of the solicitation. We note that, even in its initial protest, MAI did not claim that its proposal included the necessary information, stating instead that it did not provide detailed information on its proposed SOCI's circuit design because [deleted]. We conclude that this aspect of the evaluation was unobjectionable. See Industrial Property Mgmt., supra, at 5.

Also under the battery performance subfactor, the evaluators assigned MAI's proposal a significant weakness for failing to include data relating to battery capacity. In this regard, the RFP required proposals to include the following information:

Discuss the key design parameters as they pertain to the battery's ability to meet the following requirements as defined [in an attached military specification] and any exceptions included in this solicitation:

- a. The proposed capacity of "L," "H" and "I" capacity tests as defined [in an attached military specification]. The offeror shall also describe the methodology used to determine and validate the proposed design's ability to meet these requirements.

RFP, attach. 19, at 4. As with the lack of discussion in MAI's proposal relating to the firm's proposed SOCI, the evaluators found as follows with regard to capacity:

The cell, as the source of energy, is the key battery component with a critical impact on the battery's ability to meet the I, L and H capacity requirements. The proposal failed to discuss the cell design and how the proposed design relates to the capacity requirements

AR, exh. 8, at 3. MAI does not rebut this evaluation conclusion and, in fact, conceded in its original protest letter that:

We received sample cells from the cell manufacturer . . . with just enough time to build sample batteries and ship them to the [agency] for evaluation. We did not have time to conduct our own I, L and H capacity tests prior to submission. The samples were to demonstrate our ability to design and build the batteries as well as provide [the agency] the opportunity to determine actual battery capacity

Accordingly, again, we have no basis to question the agency's evaluation conclusions. Industrial Property Mgmt., supra, at 5. Since the protester similarly has not rebutted the agency's detailed response to the protester's remaining evaluation challenges, we conclude that the agency reasonably found MAI's proposal

technically unacceptable and, it follows, reasonably eliminated the proposal from the competitive range.²

The protest is denied.

Anthony H. Gamboa
General Counsel

² In its comments responding to the agency report, MAI raised a supplemental basis for protest to which the agency responded in a supplemental agency report. MAI did not comment on the agency's response; we therefore dismiss this aspect of the protest. 4 C.F.R. § 21.3(i) (2005).