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Washington, DC 20548

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Decision

Matter of: L-3 Communications Corporation

File: B-299014; B-299014.2

Date: January 16, 2007

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Michael F. Mason, Esq., Thomas L. McGovern, III, Esq., and Michael D. McGill, Esq., Hogan & Hartson LLP, for the intervenor.
Sherry Kinland Kaswell, Esq., Department of Interior, 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 procurement that provides for award on the basis of a cost/technical tradeoff, protest that an agency unreasonably downgraded the protester's offer to exceed the technical requirements is denied, where, in accordance with the stated evaluation scheme, the agency credited the protester's offer to exceed the requirements but concluded that the risks associated with the protester's offer did not outweigh its slight price advantage.

DECISION

L-3 Communications Corporation protests the award of a contract to Lockheed Martin Services, Inc. under request for proposals (RFP) No. 1406-04-06-RP-60246, issued by GovWorks, a Department of Interior federal acquisition center, for Joint Terminal Attack Controller (JTAC) Training and Rehearsal System (TRS) engineering design and support for the Department of the Air Force.¹ L-3 challenges the agency's evaluation of its proposal and source selection decision.

We deny the protest.

¹ GovWorks, a franchise fund within Interior, provides contracting services in support of other federal agencies on a fee-for-service basis.

The RFP, issued December 12, 2005, sought proposals for an “exemplar Joint Terminal Attack Controller Virtual Trainer (JTAC VT) Dome, as well as a prototype and/or enhanced interim training capability for a JTAC TRS Deployable/Garrison System, 2nd Generation JTAC training and rehearsal simulation environment.” RFP, Statement of Work (SOW), at 1. This training system is intended to “emulate a tactical combat environment” for ground-based joint terminal attack controllers.² Agency Report (AR), Tab 2, Acquisition Plan, at 1. The dome provides the JTAC immersive environment, in which visual images are projected. RFP, SOW, at 1. The Air Force currently has a JTAC VT dome located at the agency’s Mesa Research Site; this trainer was provided by L-3 under an earlier contract.³ Protest at 5.

Only Lockheed Martin and L-3 submitted proposals; both firms offered replicas of the JTAC VT, having the same configuration as the Air Force’s current system located at the Mesa Research Site. Protest at 5. Award was made to Lockheed Martin on March 22, 2005, and L-3 filed an agency-level protest, which was denied. L-3 then filed a bid protest with the United States Court of Federal Claims. In response to that protest, the agency terminated Lockheed Martin’s contract for the convenience of the government, revised the RFP, and requested revised proposals.

As revised, the RFP requested fixed-price, labor hour, and cost reimbursement proposals under a number of contract line items (CLIN) for a 1-year contract. CLIN 1, which was identified as the basic requirement, was for the provision, on a fixed-price basis, of an “AGOS [Air Ground Operations School] Dome with the hardware and software capability that will meet or exceed the hardware and software capabilities of [the] Mesa Research Site’s (MRS) JTAC TRS,” and for the installation of this dome at Nellis Air Force Base (AFB), Nevada.⁴ AR, Tab 9, Amended SOW, June 13, 2006, at 1-2. CLINs 2 through 4, which were identified as option requirements, provided for the performance of various tasks under fixed-labor-rate proposals. CLIN 2 was for “a proof of concept Interim JTAC TRS

² A “joint terminal attack controller” is defined within the Department of Defense to be someone “who, from a forward position, directs the action of combat aircraft engaged in close air support and other offensive air operations.” See <http://www.dtic.mil/doctrine/jel/doddict/data/j/02965.html>.

³ L-3 and Lockheed Martin were the primary developers of the original dome. Intervenor’s Comments at 3; see AR, Tab 16, Selection Decision, at 14 (“Both offerors were intimately involved in the design and development of the original JTAC VT dome.”)

⁴ The original SOW required the contractor to “[p]roduce replica current configuration of the prototype JTAC Virtual Trainer (JTAC VT) Dome, located at AFRL/HEA Mesa, AZ.” RFP, SOW, at 2.

capability at a deployed or garrison location.” As part of this effort, the contractor would provide

integrated software, hardware, and systems engineering expertise to design technologies for scaling down and integrating current JTAC TRS software to be transitioned to an interim training system for JTACs at a deployed or garrison location.

Id. at 3. CLINs 5 and 6 were identified as cost reimbursement items with identified cost ceilings for travel and materials. Id. at 8.

The RFP provided for award on a “best-value” basis, and identified the following five evaluation factors: (1) management approach and technical capabilities, (2) personnel qualifications, (3) organizational experience, (4) past performance, and (5) price.⁵ The firms were informed that factors (1) through (3) were of equal importance and together were more important than the past performance and price factors. The past performance factor was stated to be more important than the price factor. AR, Tab 9, Request for Revised Proposals, at 4.

Detailed proposal preparation instructions were provided. Among other things, the firms were required to discuss their approach to accomplishing the SOW, identify any anticipated major difficulties and problem areas, and discuss recommended approaches for resolution of difficulties and problem areas. Offerors were also to provide a complete list of equipment provided under CLIN 1 and to provide resumes and letters of commitment for key personnel. Id. at 2.

Revised proposals were received from L-3 and Lockheed Martin. While Lockheed Martin again offered to provide an exact replica of the current JTAC VT dome, L-3’s revised proposal no longer did so, but instead offered a JTAC VT dome with characteristics that exceeded the SOW requirements.

⁵ A number of subfactors were also identified for factors (1) through (4).

The revised proposals were evaluated as follows:⁶

	L-3	Lockheed Martin
Management approach/technical capabilities	Satisfactory	Very Good
Personnel qualifications	Very Good	Very Good
Organizational experience	Satisfactory	Excellent
Past performance	Excellent	Excellent
TOTAL NON-PRICE RATING	SATISFACTORY	VERY GOOD
Price	[\$Deleted]	\$3,143,462

AR, Tab 13, Technical Evaluation Consensus Report, at 5; Tab 16, Selection Decision, at 10.

The evaluators recognized and credited L-3's revised proposal's offer of enhancements to the existing JTAC dome that would exceed the SOW requirements.⁷ AR, Tab 13, Technical Evaluation Consensus Report, at 6. L-3's overall "satisfactory" rating reflected the evaluators' consensus judgment that, although L-3 had submitted a technical approach that had several items that were "considered innovative and commendable" and had an "excellent" past performance record that demonstrated the firm's ability to perform the requested work, L-3's revised proposal contained a significant deficiency and a number of weaknesses. *Id.* at 5-6. The deficiency found by the evaluators was that L-3's proposal to [Deleted] used by the agency's current JTAC dome with [Deleted] posed serious design and integration risks that L-3 did not adequately address in its proposal.⁸ In this regard, the evaluators noted that L-3's

⁶ The evaluators assigned ratings of "excellent" (the proposal contains no proposal deficiencies or weaknesses, and demonstrates exceptional understanding of services required to meet or exceed most contract requirements); "very good" (the proposal contains no proposal deficiencies and only a few minor weaknesses, and demonstrates a high quality of understanding of the services required to meet or exceed some contract requirements); "satisfactory" (the proposal contains no proposal deficiencies and some weaknesses, and demonstrates understanding of the services to meet contract requirements); "poor" (the proposal contains deficiencies and significant weaknesses); and "unacceptable" (the proposal has many deficiencies and/or gross omissions). AR, Tab 13, Technical Evaluation Consensus Report, at 4.

⁷ The technical evaluation team was comprised of technical experts from the Air Force Research Laboratory. AR, Tab 16, Selection Decision, at 4.

⁸ Because of this deficiency, L-3 proposal was evaluated as "poor" under the "understanding of the work" subfactor to the management approach/technical capabilities factor. AR, Tab 13, Technical Evaluation Consensus Report, at 2.

“proposal did not adequately address the technical risks, the cost-to-benefit trade-offs in terms of system and human performance, or the long-term implications regarding [Deleted].” Id. at 6-7. Among the weaknesses identified by the evaluators was L-3’s failure to identify all of the “critical/major hardware that are part of the current dome” and its failure to identify its program manager and systems engineers as key personnel and provide resumes and letters of intent for these individuals. Id. at 6-8.

Lockheed Martin’s overall “very good” rating reflected the evaluators’ judgment that the firm had submitted a sound technical proposal, demonstrating an understanding of the SOW, logistics, and schedule. In this regard, Lockheed Martin offered to provide an exact replica of the current JTAC VT dome, which the evaluators viewed as “reduc[ing] risk as much as possible” and suggested [Deleted]. The evaluators also noted Lockheed Martin’s “excellent” past performance, which included one evaluated strength and no weaknesses. Id. at 8; see Tab 16, Selection Decision, at 9.

Based upon its evaluation of the firms’ revised proposals, the technical evaluation team recommended award to Lockheed Martin, finding that Lockheed Martin’s higher-priced, higher-rated “proposal provides the lowest risk and the best overall value.” AR, Tab 13, Technical Evaluation Consensus Report, at 10. The GovWorks contracting officer reviewed the proposals and evaluation report, and accepted the evaluators’ consensus technical evaluation judgment. In this regard, the contracting officer noted that L-3’s “approach varied from the SOW and L-3 did not provide a thorough analysis how the new approach would benefit [the Air Force] greater than the current requirement described in the SOW.” AR, Tab 16, Selection Decision, at 9. While recognizing L-3’s \$[Deleted] price advantage over Lockheed Martin’s proposed price, the contracting officer concluded that Lockheed Martin’s evaluated technical superiority outweighed L-3’s price advantage. Specifically, the contracting officer found that

L-3[']s . . . proposal presents a slightly greater risk to the Government and is lower in costs. Although L-3 offered the Government an immediate cost savings, a life cycle cost versus performance (i.e. system hardware, human performance, etc.) trade-off analysis has not been conducted to identify the impact such a critical change would have on the entire program. This analysis would cost the Government delay and unanticipated costs.

Id. at 14. Although the contracting officer’s selection decision could have been clearer, the life cycle cost analysis, to which the contracting officer referred, relates to the technical evaluation team’s evaluated deficiency in L-3’s proposal with respect to [Deleted] and the evaluation team’s concern that L-3 had not addressed the life cycle cost impact of its proposed approach. See AR, Tab 13, Technical Evaluation Consensus Report, at 6-7. Award was made to Lockheed Martin. Following a written debriefing, L-3 filed this protest.

L-3 challenges the agency's assessment of the evaluated deficiency relating to L-3's offer to [Deleted]. L-3 complains that, although the RFP, as amended, requested that offerors provide a dome with hardware and software capability that "met or exceeded" the hardware and software capabilities of the Air Force's existing dome, the agency's evaluation in fact favored the offer of a replica dome. Protest at 16-18. L-3 argues that assigning a deficiency to L-3's offer of [Deleted] either constitutes the application of an unstated evaluation factor or indicates that the RFP was ambiguous with regard to whether a system that exceeded existing capabilities was really desired. Protester's Reply to Agency's Response at 6-7.

We do not agree that the agency applied an unstated evaluation factor in assessing a deficiency with respect to L-3's offer to [Deleted] or that the revised RFP was ambiguous as to whether a replica dome was desired by the agency. The record simply does not support L-3's view that the agency actually sought only a replica dome. The RFP informed offerors that they could choose to offer a dome that either met or exceeded the stated requirements. In this regard, the solicitation instructed offerors to explain their approaches and identify any possible problems and solutions to those problems. See AR, Tab 9, Request for Revised Proposals, at 2. The record establishes that, in accordance with the solicitation's "best value" scheme, the evaluators and selection official noted a number of strengths and credited L-3 for its offer to provide a dome that exceeded the technical requirements. See AR, Tab 13, Technical Evaluation Consensus Report, at 6; Tab 16, Selection Decision, at 6. That the technical strengths associated with L-3's offer to [Deleted], which exceeded the technical requirements, were offset by an evaluated deficiency, concerning the failure of L-3 to satisfactorily address the design and technical risks associated with [Deleted], does not show, as L-3 believes, that the agency actually sought only a replica of the hardware and software currently used in the agency's existing dome.

L-3 also challenges the reasonableness of the agency's assessed deficiency based on its offer to [Deleted]. As noted above, the evaluated deficiency reflected the evaluators' concerns with a number of risks associated with implementing L-3's proposed solution. Those concerns included the need to [Deleted], possible conflicts with an on-going research and development contract, and possible impact on the delivery schedule of the dome. In addition, the evaluators noted that L-3's "proposal also states that the [Deleted]." The evaluators also noted the L-3 did not address performing a life cycle cost versus performance tradeoff analysis for this approach. See AR, Tab 13, Technical Evaluation Consensus Report, at 6-7. L-3 argues, citing pages 21 through 30 of its proposal, that it addressed the risks associated with its proposed solution and that these risks were mitigated using approaches described in its proposal. Protester's Comments at 13.

Based on our review, we agree with the agency and intervenor that L-3's proposal does no more than cursorily address the risks associated with L-3's technical

approach. The proposal pages identified by L-3 primarily identify the features and enhancements offered by its proposed [Deleted]. Although it is true that L-3 stated in its proposal that the proposed [Deleted] was a “proven product” that was being used on a number of training systems, see AR, Tab 12, L-3 Technical Proposal, at 22-23, this does not address the evaluators’ concerns that [Deleted] posed serious implementation risks that could impact the delivery schedule, or address their concerns with L-3’s proposal of [Deleted].⁹ In this regard, L-3 recognized in its proposal that use of the [Deleted] would require modification of the [Deleted], and that there would be development costs and schedule impact associated with this modification. See, AR, Tab 12, L-3 Technical Proposal, at 28-30.

To rebut the agency’s evaluation concerns, L-3 submitted with its comments the declaration of an L-3 employee, who provides additional information concerning the firm’s proposed [Deleted] that L-3 argues establishes that its offer to provide [Deleted] was not risky.¹⁰ See Protester’s Comments, exh. 1, Declaration of Proposed Project Lead Engineer. This additional information, however, was not provided to the agency during the competition so that it could be evaluated. See Williamson County Ambulance Serv., Inc., B-293811.5 et al., Dec. 15, 2004, 2005 CPD ¶ 5 at 5-6. In any event, we find that the additional information provided in the declaration and in L-3’s arguments do not establish that the agency’s concerns were unreasonable.

L-3 nevertheless argues that, as “the architect of the JTAC system,” the protester was obviously aware of what is required for L-3 to [Deleted] and that therefore the agency’s assignment of a deficiency for this approach was unreasonable. See Protest at 21. It is an offeror’s obligation, however, to submit an adequately written

⁹ In addition, the contracting officer states that all of the simulators, identified by L-3 as using its [Deleted], are “air simulations” (that is, aircraft flight trainers), which the agency states are significantly different from the ground simulation provided by the JTAC dome. See Contracting Officer’s Response to Protester’s Comments at 5. “There is a difference in requirements or visual needs between air and ground simulators and the viability of using L-3’s proposed [Deleted] is an unknown.” Declaration of Evaluator, Dec. 15, 2006, ¶ 7. L-3 has offered no rebuttal to these statements.

¹⁰ L-3 also argues that its proposed [Deleted] approach was successfully used in its performance of the [Deleted] Program for the Air Force and that therefore this information “was too close at hand” to be ignored in the evaluation of its proposal. Protester’s Comments at 8. The agency responds that its technical evaluators did not have any involvement with this program that could validate L-3’s proposed approach. See Declaration of Evaluator, Dec. 15, 2006, ¶ 4. We find no basis in the record here to apply the “close at hand” principle, given that there is no evidence that the evaluators were aware or should have been aware of the [Deleted] Program. See The MIL Corp., B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 11-12.

proposal for the agency to evaluate. See United Defense LP, B-286925.3 et al., Apr. 9, 2001, 2001 CPD ¶ 75 at 19. An agency is not required to base its technical evaluation on a company's reputation and accept unsupported statements of capability, especially where an RFP requires the offeror to explain and support its proposed approach.

L-3 also challenges each of the agency's evaluated weaknesses in the firm's technical proposal. However, we find, based on our review of the contracting officer's selection decision, the weaknesses evaluated in L-3's proposal were not material to her "best value" selection of Lockheed Martin's proposal. Rather, the contracting officer focused and relied upon the evaluated deficiency in L-3's proposal in concluding Lockheed Martin's less risky proposal outweighed L-3's slight price advantage. See AR, Tab 16, Selection Decision, at 6, 9, and 14-15; see also Contracting Officer's Response to Protester's Comments at 5 (L-3's proposal to [Deleted] was a "key discriminator" between the two firms' proposal.) Therefore, even were we to accept the protester's arguments that the weaknesses identified by the agency lack a reasonable basis, the record does not establish that L-3 was prejudiced by the agency's evaluation in this regard.¹¹

L-3 also complains that the agency's cost analysis was unreasonable because the agency conducted a life-cycle cost evaluation of L-3's fixed-price proposal to provide the JTAC dome. This argument has no factual basis. The record establishes, as the agency repeatedly notes, that a life-cycle cost analysis was not performed. The references in the record to a life-cycle cost analysis, to which L-3 directs our attention, actually relate to the technical evaluators' finding that L-3 had proposed to provide [Deleted] for the JTAC dome and that L-3 had performed no life-cycle cost analysis of the impact of this change. See AR, Tab 13, Technical Evaluation Consensus Report, at 7.

Based on our review of the record, the agency acted reasonably and in accordance with the revised RFP in determining that Lockheed Martin's higher-rated proposal

¹¹ Prejudice is an essential element of every viable protest. Lithos Restoration, Ltd., B-247003.2, Apr. 22, 1992, 92-1 CPD ¶ 379 at 5.

was the best value as compared to L-3's lower-priced proposal that contained a significant deficiency.¹²

The protest is denied.

Gary L. Kepplinger
General Counsel

¹² L-3 makes a number of other allegations, which we have reviewed and find are without merit or were untimely filed with our Office.