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## Decision

**Matter of:** Measurements International Inc.

**File:** B-404981

**Date:** July 15, 2011

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Rand L. Allen, Esq., Kevin J. Maynard, Esq., and Brian G. Walsh, Esq., Wiley Rein LLP, for the protester.

Robert Allen Evers, Esq., for the intervenor.

Col. Mark S. Teskey, Marvin Kent Gibbs, Esq., and Charles R. Epperson, Esq., Department of the Air Force, for the agency.

Cherie J. Owen, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest that agency failed to adequately consider various risks associated with awardee's proposal to upgrade resistance measurement systems is denied, where the record shows that the agency performed a reasonable evaluation of risk in accordance with the solicitation's evaluation criteria.

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### DECISION

Measurements International Inc., of Oviedo, Florida, protests the award of a contract by the Department of the Air Force to Guildline Instruments of Smiths Falls, Ontario, under request for proposals (RFP) No. FA2263-10-R-0001, for the purchase of resistance measurement systems (RMS). The protester contends that the agency erred in determining that the awardee's proposal was technically acceptable.

We deny the protest.

### BACKGROUND

The RFP sought proposals to provide RMS to be used by the Air Force Metrology and Calibration Program facility. RMS are sophisticated measurement devices used to test and calibrate electronic components found in a variety of equipment. The RFP advised that a single fixed-price contract would be awarded to the offeror who submitted the lowest-priced, technically acceptable proposal. RFP at 57. The RFP did not require contractors to submit past performance information and did not

identify past performance as a factor to be considered in the agency's award decision.

With regard to technical acceptability, the RFP stated that each offeror's technical proposal would be evaluated to determine if it provided a sound, compliant approach that met the requirements of the solicitation's purchase description, and if it demonstrated a thorough knowledge and understanding of the requirements and their associated risks. Proposals were to identify risks associated with the proposed approach and actions the offeror would take to mitigate the identified risks. RFP at 57. With regard to technical risk, the RFP further stated:

Technical risk will be a part of the criteria considered in the acceptability decision. Technical risk assesses the degree to which an offeror's proposed approach for the requirements of the solicitation may cause disruption of schedule, increased costs, or degraded performance, the need for increased government oversight, and the likelihood of unsuccessful contract performance. The evaluation shall address the offeror's identified risks and proposed mitigation (if applicable) and document why that is or is not acceptable. Offers may be determined unacceptable, even though the minimum requirements are met, if the proposed approach poses too great a risk.

Id.

Offerors were permitted to submit proposals for new RMS or to upgrade the existing RMS. RFP at 56. Measurements and Guildline each submitted two proposals. Both of the proposals submitted by Measurements offered to provide new RMS. Guildline submitted one proposal to upgrade the existing RMS<sup>1</sup> and an alternate proposal to provide new RMS. Agency Report (AR) at 2-3. All four proposals were found to be technically acceptable.

With regard to technical risk, the agency found that Guildline's proposal to provide new RMS presented very low risk, and its proposal to upgrade the existing RMS presented some risk. AR, Tab 18, Technical Evaluation and Correspondence, at 48-50. The assessment of some risk associated with upgrading RMS was due to the age of the existing units, which were 12 years old, but the agency concluded that Guildline's warranty mitigated these risks to an acceptable level. Id. at 49-50; AR, Tab 26, Price Competition Memorandum, at 4.

In contrast, the agency determined that both of Measurements' proposals to provide new RMS presented a high level of risk. AR, Tab 18, Technical Evaluation and Correspondence, at 47. Among other things, the agency stated that Measurements

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<sup>1</sup> The existing units were manufactured by Guildline. AR at 4.

proposed an unrealistic amount of time to rework software, and this increased the risk of errors, quality issues, and delayed delivery of the systems. Id.; see also AR, Tab 26, Price Competition Memorandum, at 5 (noting also that reworking software as proposed may require increased government oversight, may cause disruption to the schedule, and may increase the likelihood of unsuccessful contract performance). However, despite the high level of risk associated with Measurements' proposals, the agency found that the risk was not high enough to make Measurements' proposals unacceptable. AR, Tab 26, Price Competition Memorandum, at 5.

With regard to price, Guildline's proposal to upgrade the existing RMS offered the lowest price at \$3,732,610. The next lowest price was proposed by Measurements for new RMS at \$5,833,524. Id. at 4-5. On March 4, 2011, the agency selected Guildline for award of the contract because that firm submitted the lowest-priced, technically acceptable proposal. AR, Tab 27, Source Selection Decision Document, at 5. The agency provided a debriefing to Measurements, and this protest followed.

## DISCUSSION

The protester argues that Guildline's proposal to upgrade the existing RMS posed a high degree of risk, and therefore the agency's determination that the proposal was technically acceptable was unreasonable. More specifically, the protester contends that the agency failed to consider, or adequately consider, such things as the age and condition of the existing RMS, possible schedule delays, additional costs associated with upgrading the RMS, and warranty limitations when evaluating Guildline's proposal.<sup>2</sup> Protest at 8-9; Protester's Comments at 3-14.

In reviewing an agency's evaluation, we will not reevaluate technical proposals; rather, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and procurement statutes and regulations. USIS Worldwide, Inc., B-404671, B-404671.3, Apr. 6, 2011, 2011 CPD ¶ 92 at 5; Metro Mach. Corp., B-402567, B-402567.2, June 3, 2010, 2010 CPD ¶ 132 at 13. We have considered all of the protester's arguments and, as discussed below, find them to be without merit.

The protester argues that the age and performance history of the current units pose risks that the agency ignored when evaluating Guildline's proposal for technical acceptability. For example, the protester contends that the agency did not take into consideration that the units are more than 10 years old and are starting to fail. Protester's Comments at 8. The protester also contends that the agency did not consider information contained in Air Force Metrology and Calibration Program

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<sup>2</sup> Measurements does not challenge the evaluation of its proposal or the agency's assessment that the proposal presented high risk.

internal bulletins from 2005 to 2010, which informed employees of performance issues with the units and how to avoid them.<sup>3</sup> Protest at 8-9; Protest exhs. 6-10.

However, the record shows that the agency did consider whether the age and condition of the existing units would result in any risk associated with the proposal to upgrade the units. The record contains a memorandum to the file documenting a meeting of the evaluators to discuss Guildline's proposal risk, including what effect upgrading the RMS would have on their lifecycle. AR, Tab 18, Technical Evaluation and Correspondence, at 40. The record also shows that, during discussions, the agency confirmed with Guildline that existing RMS with problems would be repaired prior to or in conjunction with being upgraded, at no cost to the agency. AR, Tab 21, Discussions with Guildline, at 3, 32. Finally, the evaluation shows that, in discussing Guildline's upgraded approach, the agency concluded that "some risk" existed, but that the proposal was still considered technically acceptable. AR, Tab 18, Technical Evaluation and Correspondence, at 49-50. Although the protester disagrees with this assessment, it has not shown it to be unreasonable.

The protester next argues that the awardee's proposal posed risk because repairs to existing RMS could potentially interfere with Guildline's ability to meet the agency's delivery schedule, and that the agency failed to consider this risk. Protester's Comments at 9-10. Specifically, the protester points to a sentence in the awardee's response to discussion questions stating that "if units are known to require repair, it is requested that they be scheduled for upgrade in future year options because of the volume of upgrades expected in year one." AR, Tab 21, Discussions with Guildline, at 33; Protester's Comments at 10. The protester contends that this statement presents a technical risk because it increases the likelihood that Guildline's proposed approach would cause a disruption of schedule.

We disagree. The solicitation contains a detailed delivery schedule which specifies deadlines for the delivery of new or upgraded units. RFP at 24. Guildline's proposal did not take any exception to this requirement, and the protester has not cited any statement in the awardee's proposal that it will not comply with the delivery deadlines. The statement in the awardee's proposal requesting to upgrade repaired

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<sup>3</sup> For example, a bulletin from 2010 informed employees that a default screen could appear during use of the RMS unit in the event that it suffers a non-volatile memory failure. The bulletin also stated that such memory failures could be caused by operator negligence (inadvertently pressing the wrong key) or by power outages. Protest, Tab 6, Bulletin, at 4. Other bulletins cited by the protester mainly inform employees of issues that could arise with the equipment as a result of operator error or acts of God, for example: equipment overheating resulting from failure to change air filters and stuck relays resulting from failure to use the equipment on a regular basis. AR at 5-6; Protest, Tabs 6-10.

RMS in future years (as quoted by the protester above) is only a statement of preference and does not negate or take exception to the delivery schedule set forth in the RFP. Therefore, we decline to find that the awardee's statement of preference rendered its proposal unacceptable.

The protester also contends that, in considering technical risk, the agency improperly failed to take into account the fact that the agency would bear the costs of shipping the existing units back to Guildline for upgrade. Measurements also contends that the additional costs represent an unacceptable degree of technical risk. Protester's Comments at 11.

In discussions with Guildline, the agency asked who would bear the cost for initial shipments of the existing RMS back to Guildline for upgrade. AR, Tab 21, Discussions with Guildline, at 31. In response, Guildline stated that, in accordance with standard warranty guidelines, the government would bear the transportation costs for equipment returned to Guildline for repair and/or upgrade. *Id.* at 32. The contract specialist contacted the agency's shipper, who estimated these shipping costs to be \$800 to \$900 for each RMS.<sup>4</sup> Supplemental AR, Declaration of Contracting Officer, attach. 1, at 2-3. The contemporaneous record thus shows that the agency was aware that it would incur some increased costs due to the need to ship the existing units back to Guildline for upgrade, that the agency estimated the additional costs of shipment, and that the agency determined that the overall technical risk involved with Guildline's proposal to upgrade the units included "some risk," which the agency determined was acceptable. Measurements has not shown that the agency's evaluation of technical risk in this regard was unreasonable.

Finally, Measurements argues that the agency improperly failed to consider the fact that the awardee's warranty would cover only the upgraded units, and would not cover the existing RMS prior to upgrade. Protester's Comments at 12-13. What the protester seems to ignore, however, is that Measurements' warranty would similarly not cover the risks associated with the existing units prior to upgrade, and all potential awardees would be held to the same delivery schedule. Therefore, if an existing unit were to malfunction prior to being replaced under the delivery schedule set forth in the solicitation, the unit would not be covered by the warranty offered by either offeror. Although the protester argues that upgrading RMS will take more time than replacing RMS, and therefore the agency will be forced to use the unrepaired existing units for a longer period of time under Guildline's proposed

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<sup>4</sup> The intervenor claims that the actual cost of shipping an RMS unit across the country is \$595 for air freight or \$225 each for land freight. Intervenor's Supp. Comments at 1. The protester contends that the actual cost of shipping the RMS would be much higher than the agency's estimate.

approach, the protester has not shown that this risk is so high as to render Guildine's proposal technically unacceptable.

The protest is denied.

Lynn H. Gibson  
General Counsel