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Decision

Matter of: General Dynamics Ordnance and Tactical Systems

File: B-408001

Date: May 13, 2013

Daniel E. Chudd, Esq., and James A. Tucker, Esq., Jenner & Block LLP, for the protester.

David S. Cohen, Esq., John J. O'Brien, Esq., and Gabriel E. Kennon, Esq., Cohen Mohr LLP, for HDT Tactical Systems, Inc., an intervenor.

Michael G. McCormack, Esq., Department of the Air Force, for the agency.

Jennifer D. Westfall-McGrail, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that awardee's proposed rescue vehicle should have been rejected as technically unacceptable for failing to demonstrate compliance with two mandatory solicitation requirements is denied where record demonstrates that evaluators had a reasonable basis for concluding that the requirements were met.

DECISION

General Dynamics Ordnance and Tactical Systems (GD-OTS), of St. Petersburg, Florida, protests the award of a contract to HDT Tactical Systems, Inc. (HDT), of Solon, Ohio, under request for proposals (RFP) No. FA8629-12-R-2422, issued by the Department of the Air Force for Guardian Angel Air-Deployable Rescue Vehicles (GAARVs).¹ The protester argues that the agency should have rejected HDT's proposal as technically unacceptable.

We deny the protest.

¹ The GAARV is a ground vehicle, deployable by air, that rescue teams can maneuver over adverse terrain to search for, recover, and transport isolated personnel from an area of high threat to a defensible location. RFP, Statement of Objectives, at 1.

BACKGROUND

The RFP, which was issued on June 12, 2012, contemplated the award of a fixed-price, indefinite-delivery/indefinite quantity contract for up to 61 GAARVs. The solicitation provided for award on a lowest-priced, technically-acceptable basis considering the following three technical subfactors: (1) technical performance; (2) manufacturing; and (3) product support. To be determined acceptable under the technical performance subfactor, offerors had to provide--among other things--“evidence” that their proposed vehicles met all of the mandatory requirements set forth in the System Requirement Document (SRD). RFP, Att. 4 (Sect. M), at 3. Two of the SRD requirements are relevant to the protest: the requirement that the GAARV “be steerable and stoppable by at least one RT [Rescue Team] member other than the driver,” and the requirement that it “provide rollover protection to two litter patients and GA RT [Guardian Angel Rescue Team] in all crew positions.” SRD at 3, 6.

The agency received four proposals on the August 21 closing date, including those from GD-OTS and HDT. After completing its initial evaluation, the agency established a competitive range limited to the proposals from GD-OTS and HDT. The agency then conducted discussions with, and requested final proposal revisions from, both offerors. Based on the final submissions, the agency evaluated both firms’ proposals as acceptable under all three technical subfactors. Since HDT’s total evaluated price was lower than GD-OTS’s (\$27,021,069 vs. [deleted]), the agency selected HDT’s proposal for award as the lowest-priced, technically-acceptable offer.

The contracting officer notified the protester of HDT’s selection on January 17, 2013. GD-OTS promptly requested a debriefing, which the agency furnished on February 5. GD-OTS protested to our Office on February 11.

DISCUSSION

GD-OTS argues that HDT’s proposal should have been rejected as technically unacceptable. In this regard, the protester asserts that HDT’s vehicle is not steerable and stoppable by at least one rescue team member other than the driver, and that it does not provide rollover protection to two litter patients and the rescue team in all crew positions.

As a general matter, the procuring agency is responsible for evaluating the information supplied by an offeror and determining whether it is sufficient to establish that the proposed item conforms to the solicitation’s technical requirements. See AlliedSignal, Inc., B-272290, B-272290.2, Sept. 13, 1996, 96-2 CPD ¶ 121 at 5. This is so because the agency must bear the consequences of any difficulties resulting from a defective evaluation. The Ensign-Bickford Co.,

B-274904.4, Feb. 12, 1997, 97-1 CPD ¶ 69 at 3. We will not disturb an agency's technical determination unless it is shown to be unreasonable. International Bus. Sys., Inc., B-275554, Mar. 3, 1997, 97-1 CPD ¶ 114 at 6-7. A protester's mere disagreement with the agency's technical judgment does not establish that the evaluation was unreasonable. Aerospace Control Products, Inc., B-274868, Jan. 9, 1997, 97-1 CPD ¶ 149 at 4.

In its initial protest, GD-OTS alleged that because HDT's proposed vehicle has just one front seat (where the driver sits), it is impossible for the other crew members to reach the steering wheel (or brakes) to steer (or stop) the vehicle. The agency argued in response that HDT's proposal shows that other crew members have access to the controls for steering and braking its GAARV despite the location of their seats. The agency noted that the evaluators had identified the following paragraph from HDT's proposal as evidence of the awardee's compliance with the requirement:

[deleted]

HDT Technical Proposal at 20, as cited on Consensus Scoring Sheet. The Air Force also pointed to pictures in the proposal that, according to the agency, showed "the proximate, readily accessible, and largely unobstructed nature of the location of the steering wheel and brake levers relative to the rear seats within the cabin area thus allowing direct access to both devices by all cabin occupants." Agency Memorandum of Law at 7.

After reviewing the agency report, which included a copy of the awardee's proposal, the protester argued that HDT's proposal included a diagram that demonstrated the inaccessibility of its vehicle's steering wheel and brakes to any crew member other than the driver. Specifically, GD-OTS pointed to a diagram on page 36 of the proposal, [deleted]. The protester argued that if the arc representing the limits of the crew member's reach is flipped (to represent the distance forward that a crew member can reach), it is clear that no passenger crew member would be able to reach the steering wheel or brakes without disengaging his seat belt and clambering over the incapacitated driver. GD-OTS further argued that "[i]f removing safety devices and climbing over seats and people is an acceptable solution, then the Storm can be steered and stopped even by the crew member in the bed of the vehicle--given enough perilous acrobatics." Protester's Comments, Mar. 25, 2013, at 5. According to the protester, "[s]uch an interpretation of 'steerable and stoppable' is patently unreasonable." Id.

In response, HDT argued that while crew members other than the driver can access the controls for steering and stopping its vehicle from their seats, the solicitation did not require that other crew members be capable of performing this function while remaining seated. HDT further argued that the protester's argument regarding the limits on the crew members' reach is based on a faulty extrapolation from the

diagram on page 36 of its proposal. In particular, HDT maintained that the extrapolation failed to take into account that crew members seated in the rear seats could extend their reach distance beyond the range represented by the arc simply by leaning forward.²

Based on our review of the solicitation here, we agree with HDT that the requirement that the vehicle be steerable and stoppable by a crew member other than the driver does not imply a requirement that the other crew member be capable of performing these functions while remaining belted into his seat. The RFP simply did not contain the latter requirement. Moreover, we are not persuaded by the protester's argument that unless the requirement for steering/stopping by another crew member is read to require performance of these functions from the crew member's seat, the requirement is rendered a nullity (since all crew members are potentially capable of steering/stopping the vehicle by leaving their seats and climbing to the front). HDT's proposal and the agency's evaluation were not based on crew members leaving their seats to perform the required functions. Rather, they were based on the ability of the other members of the crew--who sit in close proximity to the driver, and who, in the agency's estimation, have direct access to the steering wheel and brake levers--to operate the vehicle.

Further, we find unpersuasive the diagram relied on by the protester to support its argument that it would be impossible for a crew member other than the driver to access the controls for steering and stopping HDT's vehicle. The diagram does not account for the ability of these crew members to simply bend forward from a seated position and reach the steering wheel and brake levers. That is, it is clear from the labeling on the diagram that the arcs shown represent the distances that crew members can reach simply by extending their arms--i.e., the arcs do not show the lengthier distances that these individuals would be able to reach by rocking or bending forward. In sum, the protester has not demonstrated that the evaluators unreasonably concluded that HDT's proposal demonstrated compliance with the steering/stopping requirement.

GD-OTS's second argument, that HDT's proposal did not demonstrate compliance with the requirement that the GAARV provide rollover protection to two litter patients and the rescue team in all crew positions, is also without merit. In this connection, the protester asserts that HDT's proposal did not offer any evidence that the rollover protection identified is, in fact, strong enough to protect the litter patients and crew members in the event of a rollover. The protester conjectures that in the event the vehicle were to roll over, these bars would likely deform under the weight of the

² In supplemental comments responding to the protester's comments, HDT provided a photograph showing one of the crew members (other than the driver) leaning forward from his seat while operating the vehicle controls, to include the steering wheel and hand brakes. Intervenor's Comments, Apr. 1, 2013, at 3.

falling vehicle. GD-OTS further argues that the proposal offered no evidence that the bars would adequately protect litter patients and crew members on the rear deck in the event the vehicle were to overturn in an area with jutting crags or outcroppings.

As noted earlier in this decision, the procuring agency is responsible for evaluating the information supplied by an offeror and determining whether it is sufficient to establish that the proposed item conforms to the solicitation's technical requirements, and we will not disturb an agency's determination in this regard unless it is shown to be unreasonable. Here, the record establishes that the evaluators considered HDT's written description of its vehicle's rollover protection system as well as the various photographs of the system, [deleted], to be sufficient evidence to demonstrate compliance with the requirement for rollover protection, see Consensus Scoring Sheet.³ Notwithstanding GD-OTS's suggestion to the contrary, the solicitation did not require offerors to submit detailed test data demonstrating the strength and adequacy of their rollover protection systems. Consequently, we have no basis to question the reasonableness of the agency's reliance on the written description and photograph evidence in HDT's proposal to find that HDT's vehicle satisfied the SRD rollover requirement.

The protest is denied.

Susan A. Poling
General Counsel

³ The evaluators cited pages 6 and 16 of HDT's technical proposal as the basis for their finding that the requirement for rollover protection had been met. Page 6 of the proposal included the following written description of the vehicle's rollover protection system:

[deleted]

HDT Technical Proposal at 6. [deleted] Id. at 6, 16.