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## Decision

**Matter of:** Camel Manufacturing Company, Inc.

**File:** B-403395.6; B-403395.8

**Date:** December 8, 2011

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Jessica C. Abrahams, Esq., and Erin B. Sheppard, Esq., McKenna Long & Aldridge LLP, for the protester.

J. Andrew Watson, III, Esq., Stephen D. Davis, II, Esq., and L. Justin Burney, Esq., Maynard Cooper & Gale, P.C., for AC, Inc., an intervenor.

Joseph R. Weidenburner, Esq., Defense Logistics Agency, for the agency.

Kenneth Kilgour, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest that agency unreasonably evaluated offerors' past performance/experience is denied where the evaluation was consistent with the criteria stated in the solicitation.

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### DECISION

Camel Manufacturing Company, Inc., of Pioneer, Tennessee, protests the award of a contract to AC, Inc., of Jackson, Alabama, under request for proposals (RFP) No. SPM1C1-09-R-0147, issued by the Defense Logistics Agency (DLA) for tents. The protester challenges the reasonableness of the agency evaluations and trade-off decision.

We deny the protest.

DLA, through DLA troop support, supplies a wide variety of goods and related services to the military worldwide. This RFP, issued as a HUBZone set-aside, contemplated the award of an indefinite-delivery/indefinite-quantity (ID/IQ) fixed-price contract, with economic price adjustments, with a 1-year base period and four 1-year options, for specialized tents.

Past performance/experience, the sole technical evaluation factor, contained two subfactors of equal importance: experience and quality of items/delivery performance. Under the experience subfactor, the RFP required the offeror to

describe the extent of its “experience producing the same or similar items for a commercial or Government entity within two years preceding the solicitation closing date.” RFP at 46. Under the quality of items/delivery performance subfactor, the RFP required the offeror to “describe the quality of the items delivered,” explaining steps taken to address any quality issues, and to “specifically indicate whether the items were delivered on time, ahead of or behind schedule.” Id.

The RFP advised offerors that the government would make award to the responsible offeror or offerors whose offer conformed with the solicitation and was most advantageous to the government. The technical evaluation factor was significantly more important than price. Price was to be evaluated for “reasonableness,” with each offerors’ “total price” based on the annual order limitation quantity (AOLQ) of 1200 tents. RFP, Amend. 1 at 2.

Two relevant adjectival ratings—exceptional and very good—were defined as follows:

### **Exceptional**

**Past Performance:** The offeror’s record of past performance (experience, quality of items/delivery performance, and, if an unrestricted acquisition, compliance with contractual socioeconomic subcontracting/mentoring goals) demonstrates that the offeror meets contractual requirements and exceeds many requirements to the Government’s benefit. Contractual performance is accomplished with few minor problems for which corrective actions taken by the offeror were highly effective.

The offeror has extensive experience with items/services of the similar kind and complexity as the solicited item/services. Experience is on commercial or government contracts.

An overall rating of this magnitude indicates a comprehensive understanding of the technical requirements and an ability to provide an acceptable quality product/service with the highest probability of successful contract performance.

### **Very Good**

**Past Performance:** Past performance meets contractual requirements and exceeds some to the Government’s benefit. Contractual performance is accomplished with some minor problems for which corrective actions taken by the offeror were effective.

The offeror has experience with items/services of a similar kind and complexity to the solicited items/supplies, and experience is on commercial or government contracts.

An overall rating of this magnitude indicates an understanding of the technical requirements and an ability to provide an acceptable quality product/service with a very good probability of successful contract performance.

AR, Tab 3, RFP Amend. 9 at 2.

The agency received five proposals, including those from the protester and the awardee. The agency evaluated eight AC contracts under quality of items/delivery performance. Seven contracts had either shipped or were currently shipping on time or ahead of schedule, with no quality issues noted. The eighth contract had not yet reached its ship date. Under this subfactor, the agency evaluated 35 Camel contracts. Thirty-one of these contracts had either shipped or were currently shipping on time or ahead of schedule, with no quality issues noted; the remaining four contracts had not yet reached their ship date.

The agency evaluated Camel's and AC's proposals as exceptional for experience and very good for quality of items/delivery performance, for overall technical ratings of very good. Because AC had unique experience manufacturing the item being procured, the agency considered its proposal to be slightly superior to Camel's. AR, Tab 10, Addendum to Source Selection Decision Document (SSDD), June 6, 2011 at 2. Camel's total price, based on the AOLQ, was [DELETED]; AC's was \$16,754,400.00. Because AC had the lower-priced, more highly-rated proposal, the agency determined that AC's proposal offered the best value and documented its decision in this regard. See id. Award was made to AC, and this protest followed.<sup>1</sup>

The protester alleges that the agency's evaluation of experience/past performance was unreasonable.<sup>2</sup> Camel asserts that its flawless record under both past

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<sup>1</sup> This is the second award decision under this solicitation. The original award was protested by Camel and AC. In response to that protest, the agency elected to take corrective action, and we dismissed the protests as academic.

<sup>2</sup> In its original protest, Camel alleged that DLA had failed to adequately evaluate AC's proposed price, noting that "AC's unit price for each tent is dangerously close to being below the actual material costs." Protest at 14. Because there is no prohibition against an agency accepting a below-cost offer on a fixed-price contract, Shel-Ken Properties, Inc.; McSwain and Assocs., Inc., B-261443, B-261443.2, Sept. 18, 1995, 95-2 CPD ¶ 139 at 3, and there was no requirement in the solicitation that the agency conduct a price realism analysis, we dismissed this allegation. Fax from GAO to Parties, Sept. 9, 2011. In its supplemental protest, Camel attempted to revive this allegation, arguing that AC was the only offeror to reduce its price in connection with the agency's reevaluation and that there was an unexplained "variance" between the awardee's proposed price, its prior proposed price, and the government  
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performance subfactors met all of the requirements of an exceptional rating, and not the overall very good rating that it received. The evaluation of past performance is a matter within the discretion of the contracting agency, which our Office will review only to ensure that the agency's judgment was reasonable and consistent with the solicitation criteria and applicable statutes and regulations. Sterling Servs., Inc., B-286326, Dec. 11, 2000, 2000 CPD ¶ 208 at 2-3. A protester's mere disagreement with the agency's judgment in its determination of the relative merit of competing proposals or quotations does not establish that the evaluation was unreasonable. Champion Serv. Corp., B-284116, Feb. 22, 2000, 2000 CPD ¶ 28 at 4.

Camel's protest is essentially based on its own reevaluation of the awardee's and the protester's past performance information, see Comments, Oct. 17, 2011, at 2-9. Based on this reevaluation, Camel concludes that it deserved a higher rating than the awardee. Id. at 9. As explained below, we disagree.

In challenging the reasonableness of the agency's technical evaluation, specifically the "very good" rating assigned to both AC and Camel under the quality of items/delivery subfactor, Camel calculates and compares the "average total contract value" and on-time and early delivery percentages for AC and itself. As calculated by Camel, AC's contracts had an average total contract value of \$4,120,645.76, compared to the protester's \$7,487,819.00. Id. at 4. On-time and early delivery percentages, as calculated by Camel, were 40 percent and 50 percent, respectively, for AC, and, 34 percent and 57 percent, for Camel. Id. Citing its larger average total contract value and greater early delivery percentage, the protester asserts that it should have received the highest rating of "exceptional" under the quality of items/delivery performance subfactor. In the protester's judgment, its early delivery percentage of 57 percent renders the agency's rating of very good unreasonable on its face. Id. at 10.

As noted above, under the quality of items/delivery performance subfactor, the RFP required offerors to describe the quality of items delivered, explain any steps taken to address any quality issues, and indicate whether items were delivered on time, ahead of or behind schedule. The RFP did not contemplate--let alone provide additional credit for--using the types of averages calculated by the protester under

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estimate. Protester's Comments, Oct. 17, 2011 at 14-16. The protester's allegations in this regard appear to be little more than an attempt to reargue the very issue previously dismissed by our Office. In any event, because we conclude that these allegations do not state a violation of procurement law or regulation, or indicate that the agency's price evaluation was inconsistent with the terms of the solicitation, we dismiss these allegations as well. Johnson Controls World Servs., Inc.; Meridian Mgmt. Corp., B-281287.5 et al., June 21, 1999, 2001 CPD ¶ 3 at 3 n.2.

this factor.<sup>3</sup> Thus, the fact that the agency did not consider the relatively small difference in the average total value of contracts, and percentages of on-time deliveries,<sup>4</sup> does not establish that the agency's evaluation was inherently unreasonable or otherwise inconsistent with the terms of the solicitation.

Moreover, accepting the percentages identified by Camel, its challenge does not rise above the level of disagreement with the agency's ratings under the quality of item/delivery subfactor. Very good past performance was defined as that which "meets contractual requirements and exceeds some to the Government's benefit," where as exceptional performance is defined as that which exceeds "many" contractual requirements. In the agency's assessment, AC and Camel merited the same adjectival rating. The protester has not shown that the agency acted

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<sup>3</sup> In a related allegation, Camel argues that the agency failed to consider the overall volume of offerors' on-time deliveries under the quality of items/delivery performance subfactor. Protester's Comments, Oct. 17, 2011 at 10. The quality of items/delivery subfactor did not establish a preference for higher quantities of items delivered or for higher volumes of on-time deliveries. Rather, the extent of an offeror's past performance was a matter for consideration under the experience subfactor. See RFP at 48 (noting that offerors shall describe, under the experience subfactor, "the extent of experience producing the same or similar item(s)"). The record reflects that the agency specifically considered the volume of Camel's relevant experience under the "experience" subfactor and, based on that information, assigned Camel a rating of "exceptional" for that subfactor.

<sup>4</sup> Even giving consideration to the averages calculated by Camel, a close examination reveals them to be misleading and not supported by the underlying data. Specifically, the protester's higher average total contract value was skewed by a single contract for \$187,000,000. This contract, however, had "n/a" for on time deliveries, "n/a" for early deliveries, and "n/a" not yet due deliveries, see Protester's Comments, Oct. 17, 2011 at Exh. A, and would have limited value for the purpose of evaluating Camel's past performance. In addition, Camel's 57 percent value for early delivery, as compared with AC's 50 percent value, was skewed by two contracts that delivered 420 and 210 days early, but had values of under \$20,000, significantly less than the value of this procurement. Because the simple averages calculated by the protester are of limited analytical value in evaluating and comparing offerors' proposals, they do not provide a basis for finding the agency's evaluation and ratings unreasonable.

unreasonably in awarding the same adjectival rating to two offerors that demonstrated substantially similar rates of early product delivery.<sup>5</sup>

The protest is denied.

Lynn H. Gibson  
General Counsel

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<sup>5</sup> The protester also alleges that the above discussed flaws in the agency's evaluation rendered its best value analysis unreasonable. Since we find no merit to the protester's evaluation challenges, and given that AC's proposal was lower-priced and more highly rated than the protester's proposal, the protester's challenge of the agency's award decision is also without merit. See State Mgmt. Servs., Inc.; Madison Servs., Inc., B-255528.6 et al., Jan. 18, 1995, 95-1 CPD ¶ 25 at 6-7.