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## Decision

**Matter of:** Technology Advancement Group, Inc.

**File:** B-406982; B-406982.2; B-406982.3

**Date:** October 12, 2012

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William A. Shook, Esq., for the protester.

J. Randolph MacPherson, Esq., and Rebecca B. Jacobsen, Esq., Halloran & Sage LLP, for Trimble Navigation Limited, an intervenor.

Maj. Michael C. Evans, United States Marine Corps, for the agency.

Christina Sklarew, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protest of an agency's evaluation of the awardee's proposed fixed prices is denied where the evaluation was reasonable and in accord with the solicitation's evaluation criteria.

2. Protest that awardee's price proposal was unbalanced is denied where the agency reasonably determined that the awardee's pricing was not unbalanced and did not, in any event, pose unacceptable risk to the government.

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### DECISION

Technology Advancement Group, Inc. (TAG), of Dulles, Virginia, protests the award of a contract to Trimble Federal Navigations Solutions Group, of Dayton, Ohio, under request for proposals (RFP) No. M67854-12-R-6001, issued by the United States Marine Corps for 20 Global Positioning System-Survey (GPS-S) systems.

We deny the protest.

### BACKGROUND

The RFP provided for the award of a fixed-price contract for 20 GPS-S systems and associated support, such as logistics and maintenance, repair and/or replacement of the systems, and spare parts. These systems are to replace older GPS-S

systems that have been in use by Corps artillery surveyors since the 1990s and are obsolete.<sup>1</sup> RFP, Statement of Work (SOW), at 11.

Offerors were informed that award would be made on a lowest-price, technically-acceptable basis considering the following factors: technical, management, past performance, and price. RFP at 67-70. With respect to price, the RFP instructed offerors to submit fixed prices for 11 contract line items (CLINs): CLINs 1-5 for the GPS-S units and related services and materials, optional CLINs 6-7 for additional GPS-S units and spare parts, and optional CLINs 8-11 for contractor logistics support for a base year and 4 option years. Id. at 2-10.

With regard to the spare parts CLINs, offerors were to provide a list of recommended spare parts that might be ordered to cover the complete GPS-S system, with a separate price for each orderable item. See id. at 14, 64. The contractor logistics support was required to include:

shipping to and from the vendor's facility as necessary, logistics and maintenance support, as well as repair and/or replacement for all delivered GPS-S Systems, components, and spare parts.

Id. at 18.

Offerors were instructed to provide the necessary price information with embedded formulas as required to support all CLINs, id. at 62, but were not provided a pricing schedule or other form breaking out the various elements that would go into the offeror's unit price for CLINs 8-11. Offerors were informed that prices would be evaluated for completeness, unbalancing, and reasonableness and that an offeror's total evaluated price would be "the sum of the 'Total Amount' identified for all CLINs (including any option CLINs)." Id. at 69-70.

The Corps received proposals from TAG and Trimble, which were found to be technically unacceptable. Written discussions were conducted, and final proposal revisions (FPRs) received. The firms' FPRs were found to be technically acceptable.<sup>2</sup> See Agency Report (AR), Tab 15, Source Selection Evaluation Board Final Evaluation Report, at 57.

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<sup>1</sup> Artillery surveyors provide "a common grid for all fire support and targeting assets within the prescribed command." SOW at 1.

<sup>2</sup> Price and price-related issues were not discussed with either offeror. See AR, Tab 13, TAG's FPR; Tab 14, Trimble's FPR.

The firms' proposed prices were also evaluated. Following FPRs, Trimble's total evaluated price was \$4,868,744,<sup>3</sup> and TAG's total evaluated price was \$5,351,990. The agency found both firms' proposed prices to be complete, balanced, and reasonable. AR, Tab 16, Final Price Evaluation Report, at 2.

Trimble was selected for award, and this protest followed a debriefing.

## DISCUSSION

TAG raises a number of challenges to the agency's evaluation of Trimble's proposed price. TAG complains that Trimble failed to provide for spare parts in Trimble's proposed prices for CLINs 8-11, as required by the RFP, and that the awardee's offer therefore "failed to conform to a material requirement of the Solicitation," and could not reasonably be accepted.<sup>4</sup> Supp. Protest at 2. In this regard, TAG argues that the agency was required to perform a "specific cost analysis," rather than a price analysis, which TAG contends would have revealed that Trimble failed to include the cost of spare parts in its proposed prices for these CLINs.

The agency responds that Trimble provided fixed prices for CLINs 8-11, which includes providing spare parts. In this regard, the Corps states that Trimble did not take exception to providing spare parts, and in fact recognized the obligation to provide spare parts under these CLINs in several places in its management proposal. Supp. AR at 3. The Corps also disagrees that it was required under the RFP to perform a cost analysis to determine the reasonableness of the offerors' proposed fixed prices.

Our Office reviews challenges to an agency's evaluation of proposals only to determine whether the agency acted reasonably and in accord with the solicitation's evaluation criteria and applicable procurement statutes and regulations. Marine Animal Prods. Int'l, Inc., B-247150.2, July 13, 1992, 92-2 CPD ¶ 16 at 5. A protester's mere disagreement with the agency's judgment is not sufficient to establish that an agency acted unreasonably. Entz Aerodyne, Inc., B-293531, Mar. 9, 2004, 2004 CPD ¶ 70 at 3.

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<sup>3</sup> In its FPR, Trimble reduced its initial proposed price of [deleted] to \$4,868,752. The agency adjusted Trimble's revised price to \$4,868,744 to correct a calculation error. See AR, Tab 16, Final Price Evaluation Report, at 2-3.

<sup>4</sup> Initially, TAG protested the agency unreasonably considered the protester's proposed prices for spare parts under CLINs 8-11, arguing that the RFP either did not provide for spare parts under these CLINs or was latently ambiguous. The Corps responded that the RFP unambiguously required offerors to provide spare parts under these CLINs. TAG did not further pursue this complaint.

Here, the record supports the Corps' determination that Trimble had affirmatively committed to providing spare parts under CLINs 8-11, as required by the RFP.<sup>5</sup> Specifically, Trimble in its management proposal stated that it understood that spare parts would be provided as part of contractor logistics support under these CLINs:

Trimble understands that Contractor Logistics Support encompasses, under this contract, CONUS [continental United States] shipping to and from Trimble's facility as necessary, logistics and maintenance support, as well as repair and/or replacement for all delivered GPS-S Replacement Systems, components and **spare parts as required.**

See AR, Tab 8, Trimble's Initial Management Proposal, at 16-17 (emphasis added).<sup>6</sup> Trimble also provided a total fixed price for the CLINs 8-11, and, although it did not specifically identify spare parts, it took no exception to the requirement to provide spare parts at its proposed fixed price. See AR, Tab 9, Trimble's Initial Price Proposal, at 25-29.

We also disagree with TAG that the Corps was required to perform a detailed cost analysis under the RFP. Although TAG argues that the agency was required to separately identify offerors' costs under each CLIN and analyze them, see Supp. Protest at 2, 11-12, the RFP provided the agency would use one or more of the methods identified in FAR §§ 15.305, 15.404-1(b)(2) to determine whether an offeror's proposed price was reasonable.<sup>7</sup> Federal Acquisition Regulation (FAR) Section 15.404-1(b)(1) states that "[p]rice analysis is the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit," and 15.404-1(b)(2) identifies a number of price analysis techniques and procedures that the agency may use to ensure a fair and reasonable price, including comparison of offerors' prices and comparison to an independent government cost estimate.

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<sup>5</sup> In response to the protest, Trimble acknowledges that its fixed prices under CLINs 8-11 include spare parts, and that it is obligated to provide spare parts as needed to respond to these CLINs at the prices proposed. Intervenor's Supp. Comments at 3.

<sup>6</sup> The agency's discussions with Trimble did not address contractor logistic support under CLINs 8-11, and Trimble's FPR did not further address these CLINs, other than to restate its total fixed prices for the CLINs.

<sup>7</sup> We recognize that the RFP refers to both price and cost proposals. For example, as TAG notes, the RFP states the agency would assess the "adequacy of the cost proposal." See RFP at 70. Notwithstanding these references to assessing costs, the solicitation, read as a whole, provided only for a price analysis to assess the reasonableness of offerors' proposed fixed prices.

Here, the contracting officer determined that both firms' price proposals were complete because they included fixed prices for each CLIN and explained how the offeror would meet each of the SOW and performance specifications requirements. CO's Affidavit of August 30, 2012, at 4. She also states that she compared offers to the independent government estimate and to each other, and concluded that the prices were reasonable, given the competition here.<sup>8</sup> While TAG may disagree with the agency's assessment that Trimble's proposed fixed price is reasonable, it provides no basis to question the agency's judgment in this regard.

TAG also complains that Trimble's prices are unbalanced, noting that Trimble's prices for CLINs 3-5 (training and evaluation materials) are [deleted] higher than TAG's. TAG contends that Trimble's proposal should have been rejected on that basis.<sup>9</sup>

Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated. FAR § 15.404-1(g)(1); Triumvirate Env'tl., Inc., B-406809, Sept. 5, 2012, 2012 CPD ¶ 244 at 5. Unbalanced pricing may increase risk to the government, but agencies cannot reject an offer solely because it is unbalanced. Thus, where an unbalanced offer is received, the agency is required to consider the risks to the government associated with the unbalanced pricing in making the award decision, including the risk that the unbalancing will result in unreasonably high prices for contract performance. FAR § 15.404-1(g)(2); Cherokee Painting LLC, B-311020.3, Jan. 14, 2009, 2009 CPD ¶ 18 at 3. Our Office will review for reasonableness both an agency's determination as to whether a firm's prices are unbalanced, and an agency's determination as to whether a firm's unbalanced prices pose an unacceptable risk. Semont Travel, Inc., B-291179, Nov. 20, 2002, 2002 CPD ¶ 200 at 3.

Here, the contracting officer reviewed the offerors' CLIN pricing and recognized that Trimble's prices for the three CLINs were [deleted] higher than TAG's. She found, however, that both firms' pricing reflected their technical approaches. CO's Affidavit

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<sup>8</sup> The government estimate does not include individual CLIN price breakdowns. CO's Affidavit of August 30, 2012, at 4.

<sup>9</sup> TAG also complains that Trimble's prices for optional CLINS 8-11 are [deleted] lower than TAG's prices for these CLINs. Low prices (even below-cost prices), however, are not improper and do not establish (or create the risk inherent in) unbalanced pricing. General Dynamics-Ordnance & Tactical Sys., B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 5; Diversified Capital, Inc., B-293105.4, B-293105.8, Nov. 12, 2004, 2004 CPD ¶ 242 at 2 n.1; Islandwide Landscaping, Inc., B-293018, Dec. 24, 2003, 2004 CPD ¶ 9 at 3.

of August 30, 2012, at 5. Thus, for example, with respect to Trimble's higher total price for CLIN 3 (for training material and services), Trimble's price reflected its more robust approach, that is, Trimble's offer proposed to have these services performed by more senior and qualified personnel than did TAG's offer. In short, she found Trimble's price reasonable and not overstated. Although TAG disagrees with this judgment, pointing to its own lower pricing for CLINs 3-5, a comparison of the protester's pricing to the awardee's prices, without more, is insufficient to show that the awardee's prices are unbalanced. See General Dynamics--Ordnance & Tactical Sys., supra, at 5.

Although the CO concluded that Trimble's prices were not unbalanced, she also considered whether the pricing presented any risk to the agency and concluded that it did not. In this regard, she noted that the agency intended to execute all of the CLINs, since it required all 20 GPS-S units and the associated maintenance and training. Supp. AR at 9.

The protest is denied.<sup>10</sup>

Lynn H. Gibson  
General Counsel

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<sup>10</sup> TAG also protested initially that the agency improperly evaluated its price proposal by including an amount—[deleted]—that TAG had submitted as its price for “an optional offer of enhanced performance [that] was not intended to be included in the overall price evaluation as to the lowest price of a technically acceptable system.” Protest at 3. TAG argued that the two offers were not evaluated on a common basis, since this amount was included in TAG's total price. Although this argument appears to be inconsistent with the RFP's price evaluation criterion that informed offerors that their evaluated price would be the sum of all CLINs, including options, see RFP at 69-70, we need not resolve this issue because the record shows no reasonable possibility that TAG was prejudiced in any event. That is, even if we accept TAG's argument that its price should be reduced by [deleted] TAG's total price would still be higher than Trimble's.