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Decision

Matter of: PJ Helicopters, Inc.

File: B-402524.2

Date: May 20, 2010

Richard D. Lieberman, Esq., and Gabriel Soll, Esq., McCarthy, Sweeney & Harkaway, P.C., for the protester.

Melissa McClellan, Esq., Department of Agriculture, U.S. Forest Service, for the agency.

Jacqueline Maeder, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's price reasonableness determination under solicitation for helicopter fire suppression services was unobjectionable where it was based on comparison of prices received; fact that agency determined higher prices to be reasonable under prior solicitations does not demonstrate that determination in this case was flawed.

DECISION

PJ Helicopters, Inc., of Red Bluff, California, protests the determination by the U.S. Forest Service, National Interagency Fire Center, to exclude its proposal from the competitive range under request for proposals (RFP) No. AG-024B-S-09-9004, for exclusive-use helicopter fire suppression services at various base locations. The protester contends that the agency's price reasonableness determination was flawed, and that the agency improperly rejected its proposal based on price alone, without evaluating its technical merits and conducting a price/technical tradeoff.

We deny the protest.

The solicitation, issued September 25, 2009, contemplated the award of one or more fixed-price contracts, with economic price adjustments, for a base year, with three 1-year options, for exclusive use of a minimum of 33 standard category heavy (type I) and medium (type II) helicopters for host bases at various locations. RFP at B-1. The solicitation included 33 contract line items (CLINs), each representing a host base location. *Id.* at C-1. Award was to be made to the offeror(s) whose proposal(s) were evaluated as the "best value" to the government considering price and several non-price evaluation factors. *Id.* at E-7 to E-8. The RFP provided that price

reasonableness would be evaluated as follows: the estimated flight hours multiplied by the flight rate would be added to the daily availability rate to determine total price; total price for the base year and the option periods then would be added for purposes of determining overall price reasonableness. RFP at E-2.

The agency received 22 proposals offering 50 helicopters. Agency Report (AR), Tab A, Memorandum of Law, at 4. As relevant here, PJ (and other offerors) proposed Bell 214-B1 model type II medium helicopters, with an average base year daily availability rate of approximately \$9,882. Id. at 5. The technical evaluation team (TET) evaluated initial proposals, sent discussion letters to all offerors notifying them of deficiencies and instructing them to submit revised proposals and pricing for their final offers. Id. The agency advised PJ that its prices appeared “significantly higher than the average market for aircraft with similar internal payloads,” and advised the firm to review its pricing to assure that it was competitive. Id. at 4; Tab G, Discussion Letter to PJ, at 1.

The TET evaluated revised proposals and assigned adjectival and comparable numerical ratings for each aircraft, which resulted in a recommended assignment of helicopters. AR, Tab H, TET Summarization, Reference A, at 5-6; Tab A, Memorandum of Law, at 5; Tab I, Recommendation Letter to the Source Selection Authority, at 2. In reviewing the recommendations, the TET noted that the B-214 helicopter, with an average base year daily availability rate of \$9,882, was priced significantly higher than other medium type II helicopters, which had an average base year daily availability rate of \$5,281. AR, Tab A, Memorandum of Law, at 5-6. While the agency recognized that there are additional costs associated with the B-214 (noting, for example, that this model requires two pilots, two relief pilots, and substantial support for maintenance), it determined that PJ’s (and the other offerors’) proposed prices for the B-214s were “considerable and far more than those additional components for these models would normally reflect.” AR, Tab H, TET Summarization, Reference B, at 1-2. The agency estimated that a reasonable price would be \$7,252 per day. Id. at 2.

In deliberating over the B-214 prices, the agency noted that it had an exclusive-use history with B-214s. Specifically, it had awarded contracts to offerors proposing B-214s at similarly high prices under the past two procurements. Id. at 1. The agency noted that, while it had considered not making awards to those offerors, it had decided to make the awards because, due to time constraints and the unavailability of other aircraft—neither of which was an issue under this solicitation—resoliciting the requirements was not possible. Id. at 2.

The agency ultimately concluded that PJ’s (and the other offerors’) B-214s were unreasonably priced based on overall cost, including daily availability and hourly flight rates, and that, even though the B-214 may have a higher technical rating than other offered medium helicopters, there was no additional value in awarding to these

significantly higher-priced aircraft. AR, Tab H, TET Summarization, Reference B, at 3; Tab I, Recommendation Letter to Source Selection Authority, at 6. By letter dated January 21, 2010, the agency notified the protester that its proposal of B-214 helicopters had been eliminated from the competitive range because of its high price. Protest, attach. 1, at 1.

PJ asserts that the agency improperly determined that its price was unreasonable, noting that the agency actually found higher prices for B-214s to be reasonable under previous solicitations for services at the same bases, notwithstanding a virtually identical price differential. Protest at 2; Protester Comments at 3. PJ contends that the agency has offered no evidence for its proposition that the availability of aircraft supported different price reasonableness determinations under the different procurements. Protester's Comments at 3.

In evaluating price reasonableness, agencies may use a variety of techniques, including comparison of the proposed prices received in response to the solicitation, comparison of the proposed prices to prices previously paid for the item being acquired, comparison of the prices proposed with published commercial price lists and comparison of the prices received with an independent government estimate. Federal Acquisition Regulation (FAR) § 15.404-1(b)(2). A price reasonableness determination is a matter of administrative discretion involving the exercise of business judgment by the contracting officer that we will question only where it is unreasonable. The Right One Co., B-290751.8, Dec. 9, 2002, 2002 CPD ¶ 214 at 5.

The price reasonableness determination here was unobjectionable. The agency used one of the acceptable evaluation methods specifically identified in the FAR-- comparison of prices received--as the basis for its analysis, which revealed a significant price difference between the B-214 prices and the prices for other offered helicopters. While the protester points to the fact that similar prices were deemed reasonable under prior solicitations, the record shows that the agency was cognizant of that fact and, as noted, determined that, here, it was not under the same time and supply constraints that led to its contracting for B-214s at a similarly high price under those prior solicitations. Contrary to the protester's position, we find that this rationale fully explains the agency's different price reasonableness determination in this case. Moreover, the underlying premise of PJ's argument--that a price reasonableness determination under a prior solicitation can affect the propriety of a current reasonableness determination--ignores the well-established principle that each federal procurement stands on its own. Sabreliner Corp., B-275163 et al., Dec. 31, 1996, 96-2 CPD ¶ 244 at 2 n.2. The fact that the Forest Service previously determined that B-214 prices were reasonable thus did not compel it to reach the same determination here.¹

¹ PJ maintains that the agency inaccurately estimated that including the B-214s in the awards could cost an additional \$20 million, and that the actual difference is

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PJ argues that the agency improperly rejected its B-214 helicopters based on price alone, without considering their technical merits. However, where an agency determines that a proposal offers unreasonably high prices, it properly may reject the proposal solely on that basis. Gold Cross Safety Corp., B-296099, June 13, 2005, 2005 CPD ¶ 118 at 2. In any case, as noted above, the record clearly indicates that, notwithstanding its finding that PJ's price was unreasonable, the agency evaluated the technical merits of the B-214 helicopter and conducted a best value trade-off; it determined that, notwithstanding the B-214s' higher technical rating, there was insufficient benefit to the agency to justify their significantly higher price.² AR, Tab H, TET Summarization, Reference B, at 3; Tab I, Recommendation Letter to Source Selection Authority, at 6.

The protest is denied.

Lynn H. Gibson
Acting General Counsel

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\$8 million. However, as discussed, it is clear from the record that the basis for the agency's price reasonableness determination was a comparison of the prices for B-214s to the prices for other helicopters. Any error in calculating the extended price difference thus is immaterial.

² PJ asserts that the Forest Service provided it an inadequate debriefing. This is a procedural matter concerning agency actions unrelated to the validity of the award; we generally will not review such matters. C-Cubed Corp., B-272525, Oct. 21, 1996, 96-2 CPD ¶ 150 at 4 n.3.