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Decision

Matter of: Sikorsky Aircraft Company; Lockheed Martin Systems
Integration-Owego--Request for Reconsideration

File: B-299145.4

Date: March 29, 2007

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DIGEST

Agency reasonably determined that protester's recent, seriously deficient performance on a highly relevant contract for a similar aircraft warranted a past performance rating of little confidence, notwithstanding that protester also had very good performance on another highly relevant contract.

DECISION

The Department of the Air Force requests reconsideration of our decision, Sikorsky Aircraft Co.; Lockheed Martin Sys. Integration-Owego, B-299145 et al., Feb. 26, 2007, 2007 CPD ¶ ___, asking that we decide issues that were not addressed in that decision. In our decision, we sustained the protests of Sikorsky Aircraft Company and Lockheed Martin Systems Integration-Owego (LMSI) against the Air Force's award of a contract to The Boeing Company under request for proposals (RFP) No. FA8629-06-R-2350, for the Combat Search and Rescue Replacement Vehicle (CSAR-X).

We sustained the protests on the basis that the Air Force's evaluation of operations and support (O&S) costs was inconsistent with the approach set forth in the solicitation.¹ We recommended that the Air Force amend the solicitation to clarify its intent with respect to the evaluation of O&S costs, reopen discussions with offerors consistent with our decision, and then request revised proposals. The protesters had raised numerous additional challenges to the evaluation of proposals, but we viewed them as academic, and therefore did not address them. However, the Air Force has requested that we address the additional issues in order to "facilitate an expeditious and comprehensive approach for completing the CSAR-X source selection." Air Force Letter to GAO, Mar. 12, 2007. Essentially, the agency desires to implement corrective action that will correct any deficiencies identified by GAO in the procurement. In these circumstances, given the agency's urgent and important need for a new combat search and rescue aircraft, our Office will address the additional arguments.

We have reviewed all of the additional arguments raised by Sikorsky and LMSI and we found that none furnished an additional basis for sustaining the protests. We discuss two of the more significant arguments below.

BACKGROUND

As discussed in our decision, the solicitation provided for the acquisition of a non-developmental item, medium lift, vertical take-off and landing aircraft that, with minimal development, could achieve a combat ready CSAR-X Block 0 aircraft Initial Operational Capability (IOC) by Fiscal Year 2012 and replace the HH-60 aircraft, the agency's current combat search and rescue aircraft and an aircraft with several significant shortfalls. Award was to be made to the offeror whose proposal represented the "best value" based on consideration of four evaluation factors: (1) mission capability, including (in descending order of importance) subfactors for Block 0 aircraft performance, system architecture and software, systems engineering, product support, management/schedule and Block 10 aircraft performance; (2) proposal risk; (3) past performance; and (4) cost/price. The solicitation further provided that, for evaluation purposes, cost/price would be calculated on the basis of the Most Probable Life Cycle Cost (MPLCC) for the

¹ In addition, we noted that, while Boeing's proposal generally referred to [DELETED] estimated maintenance manhours per flight hour (MMH/FH) for its proposed aircraft, and Boeing was given credit in the technical evaluation for meeting the specification objective of no more than 10 manhours, in fact, the specific calculations in Boeing's proposal supporting the claimed [DELETED] manhours actually indicated an estimated MMH/FH of [DELETED] hours. Boeing Mission Capability Proposal, 1(d) Product Support, § 4.2, at 46, 50-51, 62-63. We expect that the agency will resolve this discrepancy during the reopened discussions.

aircraft, which was comprised not only of the cost/price of system development and demonstration and of production, but also of O&S costs and other life cycle costs.

After conducting several rounds of written and oral discussions—including several face-to-face “debriefings” during which offerors were advised of the agency’s current evaluation of their technical proposals and past performance—and after a flight evaluation to assess the current capability of the offerors’ baseline aircraft, the Air Force requested final proposal revisions (FPR) by September 18, 2006. The Air Force evaluated the FPRs as follows:

	LMSI	Sikorsky	Boeing
Mission Capability/ Proposal Risk			
Block 0 Performance	Acceptable/High	Acceptable/Low	Exceptional/Low
Architecture/Software	Acceptable/ Moderate	Acceptable/Moderate	Acceptable/Moderate
Systems Engineering	Acceptable/Moderate	Acceptable/Moderate	Acceptable/Moderate
Product Support	Exceptional/Low	Exceptional/Low	Acceptable/Low
Management/Schedule	Acceptable/Moderate	Exceptional/Moderate	Exceptional/Moderate
Block 10 Performance	Acceptable/Moderate	Acceptable/Moderate	Exceptional/Moderate
Past Performance	Little Confidence	Satisfactory Confidence	Satisfactory Confidence
Price/Cost	(\$ million)	(\$ million)	(\$ million)
SDD Proposed	[DELETED]	[DELETED]	[DELETED]
SDD Adjustment	[DELETED]	[DELETED]	[DELETED]
Production Proposed	[DELETED]	[DELETED]	[DELETED]
Production Adjusted	[DELETED]	[DELETED]	[DELETED]
OGC	[DELETED]	[DELETED]	[DELETED]
Subtotal	[DELETED]	[DELETED]	[DELETED]
O&S	[DELETED]	[DELETED]	[DELETED]
MPLCC	\$35,853.7	\$38,531.8	\$38,891.5

Based on the evaluation results, the source selection authority (SSA) determined that Boeing’s proposal represented the “best value.” In this regard, the SSA noted that LMSI’s proposal had received a high risk rating under the Block 0 performance subfactor due to [DELETED]. According to the SSA, since “[DELETED],” he “saw no reason to take on that HIGH level of risk.” Source Selection Decision (SSD) at 6. In addition, the SSA noted that LMSI had received a little confidence rating for past performance due to unsatisfactory performance under its current contract for the VH-71 Presidential helicopter, which was evaluated as the most highly relevant to this procurement. According to the SSA, LMSI had “show[n under that contract] that it could not reliably meet important schedule requirements and had difficulty in systems engineering flow-downs to their subcontractors.” *Id.* at 7. The SSA, noting the “stronger proposals offered by Boeing and Sikorsky,” concluded that the “modest” MPLCC savings associated with LMSI’s proposal were outweighed by LMSI’s high risk rating under the Block 0 performance subfactor and little confidence past performance rating. *Id.* at 6-7.

The SSA also determined that Boeing’s proposal was more advantageous than Sikorsky’s lower cost proposal. In this regard, the SSA emphasized that Boeing’s

was the only proposal that received an excellent rating under the Block 0 performance subfactor, having received significantly more strengths (including strengths for mission load and occupant protection) than Sikorsky's proposal. The SSA also noted Boeing's advantage under the Block 10 performance subfactor (the least important subfactor), where Boeing's proposal was rated exceptional and Sikorsky's only acceptable. The SSA concluded that Boeing's greater mission capability strengths outweighed Sikorsky's "slightly lower" MPLCC. Id. at 10.

LMSI's PAST PERFORMANCE

As indicated above, LMSI received a past performance rating of little confidence (indicating that a substantial doubt existed that the offeror would successfully perform the required effort) due to unsatisfactory performance under its current contract to design, develop and field the VH-71 Presidential helicopter, a contract evaluated as highly relevant to this procurement. See RFP § M 12.1. The SSA noted that LMSI had shown under the VH-71 contract that it "could not reliably meet important schedule requirements and had difficulty in systems engineering flow-downs to their subcontractors," SSD at 7, and cited LMSI's poor performance as one of the principal bases for his determination that, notwithstanding its lower evaluated cost/price, LMSI's proposal nevertheless did not represent the best value.

LMSI challenges the past performance evaluation primarily on the bases that (1) it was misled by the agency during discussions as to the agency's view of its past performance, and (2) the agency overemphasized its performance under the VH-71 contract.

Opportunity to Respond During Discussions

As an initial matter, it is clear from the record that the Air Force reasonably communicated to LMSI its concerns with respect to its performance under the VH-71 contract. In this regard, the solicitation provided for evaluation of "an offeror's relevant present and recent past performance, focusing on and targeting performance which is relevant to the Mission Capability subfactor and Cost/Price factors." RFP § M 12.2. Relevance was to be based on factors such as whether performance involved "the same or similar hardware, technology, and manufacturing processes," similar effort by the same division, or "[s]ystems integration similar to the complexity of the CSAR-X Program." RFP § M 12.2. The RFP provided that, during discussions, offerors would "be given the opportunity to comment on . . . adverse performance information, except adverse information where they have previously been given an opportunity to respond (e.g. CPARS information)." RFP § M 6.

LMSI listed in its proposal as one of five relevant LMSI contracts its contract with the Department of the Navy for the VH-71 Presidential Helicopter, stating that "[o]ur VH-71 contract is highly relevant to all CSAR-X Mission Capability Sub-Factors . . . as

it requires complex system/subsystem integration and shares the common foundation of the EH101 medium lift helicopter.” LMSI Past Performance Proposal at 16. LMSI noted that AgustaWestland, which had been part of its VH-71 team, was also proposed as a part of its team here; AgustaWestland builds the EH101 helicopter that was the basis for both programs. Id. at 3, 16.

Both the VH-71 administrative contracting officer (ACO) and the VH-71 program office completed initial past performance questionnaires for the Air Force. Both questionnaires were critical of LMSI’s performance on the VH-71 contract; [DELETED].

On December 22, 2005, the Air Force issued an evaluation notice (EN) advising LMSI that it had received a past performance questionnaire from the VH-71 program office that identified three shortcomings in LMSI’s performance on that contract: (1) an inability to accurately articulate and flow down to subcontractors [DELETED]; (2) [DELETED]; and (3) [DELETED]. EN LM-PP-2.

In its January 9, 2006 response to the EN, LMSI acknowledged that there had been [DELETED] on the VH-71 contract. LMSI explained that there had been [DELETED]. LMSI Response to EN LM-PP-2 at 1-2. LMSI further responded, however, that [DELETED]. Id.

LMSI does not deny that, as is evident from the facts recited above, the Air Force advised the firm of the agency’s concerns with its performance on the VH-71 contract. Rather, LMSI asserts that it thereafter was misled by the Air Force into believing that the agency was satisfied with its response to the agency’s evaluation notice and, as a result, was deprived of a meaningful opportunity to further respond to the perceived VH-71 performance problems. Specifically, LMSI notes that, in the agency’s subsequent interim (pre-FPR) evaluation briefings in March, July, and September, LMSI was advised that its proposal had received a satisfactory confidence rating for past performance.

It is clear from the record, however, that not only should LMSI have been on notice that the agency’s concerns with its VH-71 performance had not been fully resolved by LMSI’s explanation, but that, in any case, LMSI had a further opportunity to respond to the adverse past performance information that furnished the basis for the protester’s final past performance rating of little confidence. In this regard, in each of the three pre-FPR briefings, the Air Force noted that there had been “VH-71 difficulties.” LMSI CSAR-X Initial Evaluation Briefing at 43; LMSI CSAR-X Interim Evaluation Brief at 58; LMSI CSAR-X Final Proposal Revision Brief at 55. In addition, in the March briefing, the agency noted that LMSI’s [DELETED] and, in the July and September briefings, referred to its “[c]oncerns with [LMSI’s] VH-71 contract performance.” LMSI CSAR-X Initial Evaluation Briefing at 43; LMSI CSAR-X Interim Evaluation Brief at 55; LMSI CSAR-X Final Proposal Revision Brief at 52.

Moreover, the SSA noted in his source selection decision (as had the agency evaluators in their recommendation to the SSA) that LMSI's final past performance rating of little confidence was based on a negative October 5 Contractor Performance Assessment Report (CPAR) for the VH-71 contract which, although it was first furnished to the Air Force by the Navy on October 12 (after the September 18 closing date for receipt of FPRs), had been previously furnished to LMSI for comment on or about July 10, and commented on by LMSI on October 2. SSD at 7; CSAR-X Final Evaluation Brief, Oct. 21, 2006, at 114, 116-17. As discussed in more detail below, the Navy CPAR rated LMSI's VH-71 performance [DELETED]. Given the Air Force's continuing expressions of concern over LMSI's VH-71 performance, and the very unfavorable Navy CPAR that was furnished to LMSI in July, LMSI clearly was on notice of the need to further account for its VH-71 performance. We note, moreover, that LMSI in fact included an explanation of its VH-71 performance in its response to the CPAR--the agency considered this response in its final evaluation--and that LMSI could have provided an explanation in its FPR response as well, had it chosen to do so. We thus find no basis for concluding that LMSI was deprived of an opportunity to respond to the adverse past performance information on which the little confidence evaluation rating was based.

Little Confidence Rating

Turning to the evaluation itself, we find no basis for questioning the weight the Air Force accorded the VH-71 contract in assigning LMSI a little confidence rating for past performance. The evaluation of an offeror's past performance, including the determination of the relevance and scope of an offeror's performance history, is a matter of agency discretion that we will not question unless shown to be unreasonable, undocumented, or inconsistent with the solicitation criteria or applicable statutes or regulations. Family Entm't Servs., Inc., d/b/a/ IMC, B-291997.4, June 10, 2004, 2004 CPD ¶ 128 at 5.

As discussed, the Air Force considered the VH-71 contract to be the most "highly relevant" contract for LMSI, because the VH-71 helicopter was based on the same helicopter (EH101) as LMSI's proposed CSAR-X helicopter, and the VH-71 contract effort involved a similar teaming arrangement with AgustaWestland. Tr. at 288, 430-32; CSAR-X Proposal Analysis Report (PAR) § 3.1.2.2; CSAR-X Final Evaluation Brief at 116. In its proposal, LMSI rated its contract with the United Kingdom's Ministry of Defense for the Merlin Mk 1 helicopter (which, likewise, was based on the EH101 helicopter) more relevant than the VH-71 contract, but it also described the VH-71 contract as "highly relevant to all CSAR-X Mission Capability Sub-Factors . . . as it requires complex system/subsystem integration and shares the common foundation of the EH101 medium lift helicopter." LMSI Past Performance Proposal at 16. Given the similarities of the VH-71 contract to the current effort and LMSI's own characterization of the contract, whether or not it was the most relevant prior contract, the VH-71 contract clearly was highly relevant, and properly was accorded substantial weight in the evaluation.

We see nothing unreasonable in the agency's concluding that LMSI's recent, seriously deficient performance on a highly relevant contract for a similar aircraft warranted a finding of little confidence, notwithstanding that LMSI also had very good performance on another highly relevant contract. In this regard, as noted above, the official Navy CPAR documenting LMSI's performance on the VH-71 contract described seriously deficient performance, including [DELETED]. The Navy's CPAR attributed LMSI's poor performance to such factors as [DELETED]. In this latter regard, according to the Navy, LMSI's [DELETED]. Navy CPAR, LMSI VH-71 Contract, Oct. 5, 2006. Further, while the VH-71 program manager expected that [DELETED] would improve, the CPAR indicated that [DELETED]. *Id.* We conclude that the agency's evaluation of LMSI's past performance was reasonable.

DEPLOYABILITY

LMSI and Sikorsky question the agency's evaluation of the deployability of Boeing's proposed aircraft, the HH-47 helicopter. In this regard, the RFP provided for evaluation of an offeror's deployability strategy under the product support subfactor of the mission capability evaluation factor. RFP § M 10.4. The CSAR-X System Requirements Document (SRD) specifically required that the proposed aircraft be capable of being configured, prepared, and ready for loading aboard either a C-17 or C-5 cargo aircraft in no more than 3 hours, with an objective of no more than 2 hours, and that, following off-loading at the destination, the aircraft "be reconfigured and flight ready" within a maximum of 3 hours, with an objective of no more than 2 hours. SRD § 3.4.2.1.

Offerors were required to demonstrate their deployability strategy both in their proposals and as part of a required flight demonstration. In this regard, the RFP provided that "[i]n order to assist the government in assessing proposal risk, each offeror is required to participate in a CSAR-X flight evaluation of the aircraft they intend to use as the non-developmental baseline aircraft for the CSAR-X program." RFP § L 3.2.7. The RFP further described the required flight demonstration as follows:

The purpose of the flight evaluation effort is to assess the current capability of the offeror's baseline aircraft. The Government understands that the aircraft provided for the CSAR-X Flight Evaluation may have to be modified through the [system development and demonstration] contract to meet all SRD Block 0 and/or Block 10 requirements. Accordingly, the flight evaluation will be used to support a Government assessment of the offeror's proposal risk.

RFP, attach. 14, § 1.0. Regarding deployability, the RFP provided that a government team would evaluate the aircraft build-up (as well as aircraft teardown), stating that the "[t]imed build-up procedures begin when the word 'GO' is given and 'STOP' when

the CSAR-X is flight ready status (maintenance sign off of aircraft log book).” Id., at Table A14-4, Task 4.

Unlike the single rotor Sikorsky baseline S-92 and LMSI baseline EH101 helicopters, the Boeing baseline MH-47G helicopter has two rotors, and in order to load it into a cargo aircraft, it is necessary to remove the rotor blades, its transmission packages, and the aft and forward pylons on which the rotors are mounted. Boeing Product Support Proposal §§ 1.6.1, 1.6.2. Boeing’s baseline aircraft, [DELETED], demonstrated a teardown time of less than the specified 2-hour objective time. However, during Boeing’s December 6, 2005 flight demonstration, Boeing’s baseline MH-47G helicopter was determined flight-ready 2 hours 58 minutes after build-up began, just short of the maximum of 3 hours allowed in the SRD. In contrast, the LMSI and Sikorsky baseline aircraft demonstrated a build-up time of [DELETED]. Agency evaluators described the demonstrated build-up of Boeing’s helicopter as follows: “Marginal. Threshold time with two exceptions; [DELETED] not installed but required for flight. Additionally, multiple follow-up maintenance requirements including: [DELETED].” CSAR-X Flight Demonstration--Boeing at 24; CSAR-X Flight Demonstration--LMSI; CSAR-X Flight Demonstration--Sikorsky; Contracting Officer’s Statement--Dec. 26, 2006, at 5.² Boeing’s proposed aircraft ultimately was found not deficient in this area.

The protesters assert that the evaluation of Boeing’s proposed CSAR-X aircraft as compliant with the SRD deployability requirements was unreasonable. As noted by the agency, however, the solicitation did not provide for a pass/fail flight demonstration that would be conclusive as to whether the proposed CSAR-X met the SRD requirements. Rather, according to the RFP, the “purpose of the flight evaluation effort is to assess the current capability of the offeror’s baseline aircraft,” “to support a Government assessment of the offeror’s proposal risk,” with the “understand[ing] that the aircraft provided for the CSAR-X Flight Evaluation may have to be modified through the [system development and demonstration] contract to meet all SRD Block 0 and/or Block 10 requirements.” RFP, attach. 14, § 1.0.

² The record indicates that the start and stop of the build-up demonstration was determined for each of the offerors by their maintenance crew chief, not by the government observer team. Hearing Transcript (Tr.) at 729-31, 735-37, 760, 825-27. While affording an offeror the discretion to determine the stopping time could call into question the objectivity of a demonstration, the exceptions noted in the evaluators’ report on the Boeing demonstration here indicate that the evaluators nevertheless exercised independent judgment to the extent that they could detect any obvious impediments to flight readiness. Since all offerors were afforded similar discretion, and the protesters have failed to demonstrate that the evaluation results did not accurately represent the general capabilities of Boeing’s aircraft in this regard, the procedures followed do not furnish a basis for objecting to the evaluation of Boeing’s deployability approach.

Given this evaluation scheme, the relevant question is whether the Air Force reasonably concluded that the results of Boeing's flight demonstration, considered together with Boeing's proposed modifications to the baseline aircraft and other aspects of its technical approach, warranted a finding that the aircraft was reasonably likely, ultimately, to comply with this deployability requirement. In this regard, the Air Force noted that Boeing proposed to incorporate into its helicopter a number of additional time-saving measures not installed on the demonstrated helicopter, including a [DELETED]. Tr. at 748-68, 775-79, 815, 860-66, 929-36; Boeing Mission Capability Proposal, 1(d) Product Support § 4.6.3; Boeing System Architecture Volume § 2.1.10; Boeing Cost/Price Proposal at 50; Boeing Statement of Work § 1.1.1.2.1.³ The agency determined that these additional time-saving measures, when combined with increased training and familiarity with the aircraft, would enable Boeing's CSAR-X aircraft to meet the SRD 3-hour build-up requirement. The agency's determination, on its face, does not appear unreasonable, and the protesters have not shown otherwise.

Having reviewed each of the other additional grounds of protest raised by Sikorsky and LMSI, we likewise find that there is no additional basis for sustaining the protests.

Gary L. Kepplinger
General Counsel

³ Contrary to the protesters' suggestions, the record indicates that the proposed Boeing HH-47 aircraft will include [DELETED]. Boeing Cost/Price Proposal at 50; Boeing Statement of Work § 1.1.1.2.1; Tr. at 801, 815. ([DELETED]. Tr. at 751.)