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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Matthews Manufacturing, Inc.

File: B-299518; B-299518.3

Date: June 11, 2007

Matt Alexander for the protester.

Charles Morris, for Universal Marine Services, Inc., an intervenor.

J. Stephen Brophy, Esq., Department of Homeland Security, for the agency.

Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where solicitation for buoys gave predominant weight to technical factors as compared to price, agency's decision to award, based on the offeror's higher-priced proposal and demonstrated experience and capability in producing buoys identical to those being procured, was reasonable and in accord with the solicitation.

DECISION

Matthews Manufacturing, Inc. protests the award of a contract to Universal Marine Services, Inc., under request for proposals (RFP) No. HSCG23-06-R-ECB018, by the United States Coast Guard, Department of Homeland Security, for the supply of steel ocean buoys.

We deny the protest.

The RFP, issued on September 8, 2006, sought proposals for steel ocean buoys to be used as navigational aids to be fabricated in accordance with government provided specifications and drawings. The RFP contemplated the award of a fixed-price, with economic price adjustments, requirements contract, for a base year with four 1-year options.

The RFP provided for award on a "best-value" basis, considering the following evaluation factors listed in descending order of importance: manufacturing approach capability, relevant experience, quality control plan, price, and relevant past performance. RFP at 129.

The manufacturing approach capability factor included the following equally weighted subfactors: manufacturing process, facilities and equipment, and manufacturing plan. Under the manufacturing process subfactor, the “[d]emonstrated manufacturing capability in terms of offeror’s existing manufacturing processes and systems from start to completion of the finished buoy, or its detailed plan to obtain/develop the requisite manufacturing capability,” would be evaluated. Under the facilities and equipment subfactor, the “[d]emonstrated existing capability in offeror’s existing manufacturing facility including all sub assembly operations used to finish the buoy, or its detailed plan to obtain/develop the requisite manufacturing facilities [and the] [d]emonstrated existing capability of the offeror in all machine types for each operation performed, or its detailed plan to obtain/develop requisite capability in all machine types,” would be evaluated. The manufacturing plan was to “demonstrate a comprehensive understanding of the requirements and address each aspect of buoy construction in terms of existing manufacturing systems (processes), facilities and equipment, or its detailed plan to obtain/develop the requisite manufacturing systems (processes, facilities and equipment).” Id.

The relevant experience factor was to evaluate “relevant experience in manufacturing items from standard specification documents such as aids to navigation or items of similar design or construction to those requested.” RFP at 130.

The quality control plan factor included five equally weighted subfactors: receiving and components, cutting room operations, assembly area operations, final inspections, and packaging, shipping and handling operations. Under the packaging, shipping and handling operations subfactor, the quality control plan was to “demonstrate [that] adequate shipping materials will be used and proper visual inspection of packages before shipment will be conducted to ensure proper structural integrity, sealing and labeling is accomplished without fail.” Id.

The relevant past performance factor included five equally weighted subfactors: product quality, timeliness, business practices, cost control, and customer satisfaction. Id.

Four proposals, including Matthews’s and Universal’s, were received in response to the RFP by the October 25 closing date. These offerors’ proposals were evaluated as follows:

	Manufacturing Approach Capability	Relevant Experience	Quality Control Plan	Price	Relevant Past Performance
Universal	Superior	Superior	Satisfactory	\$22,917,959	Satisfactory
Matthews	Satisfactory	Satisfactory	Satisfactory	\$20,993,035	Satisfactory

Agency Report, Tab 14, Price Memorandum, at 3.

The evaluators found Matthews's proposal contained no weaknesses, significant weaknesses or deficiencies, except under one subfactor. Under the packaging, shipping, and handling operations subfactor of the quality control factor, where Matthews's proposal was rated marginal, it was found that Matthews had failed to address specifically how the buoys will be packaged and handled for shipment. Id. at 4.

Similarly, the evaluators found that Universal's proposal had no weaknesses, significant weaknesses, or deficiencies. However, the evaluators attached significant benefit to Universal's proposal because "[Universal] has all of the skill sets and equipment required to fabricate the buoys", "[Universal has] built the identical steel ocean buoys for 10 years (1993 to 2003)," and currently is "working on a Coast Guard contract for ocean buoys" and is "building ocean buoys for the Corps of Engineers." Id. The evaluators found that a superior rating was warranted under the manufacturing approach factor because Universal's "extensive expertise with this identical product means that that there will be no lead time or learning curve" as would be the case with a company that never built the product. Id. A superior rating was found warranted under the relevant experience subfactor because Universal had built the buoys for the Coast Guard over 10 years and had done so for other government agencies and commercial vendors for 13 years.

Based on the evaluation results, the source selection official determined Universal's proposal to be the best value. In making the decision, the official found that, although Universal's price, which the agency found was fair and reasonable, was 10 percent higher than Matthews's price, Matthew's low price did not outweigh the superior technical capabilities and ratings associated with Universal's proposal. Id. at 5. The Coast Guard awarded the contract to Universal on February 12. This protest followed.

The crux of Matthews's protest is that the Coast Guard did not have a reasonable basis to make award to Universal at a higher price. To this effect, Matthews challenges the validity of the superior ratings Universal's proposal received under the manufacturing approach and relevant experience factors, arguing that this evaluated superiority was based on unstated evaluation criteria relating to Universal having previously provided the identical item.

In reviewing protests against allegedly improper evaluations and awards, it is not our role to reevaluate proposals. Rather, our Office examines the record to determine whether the agency's judgment was reasonable, and in accord with the RFP's terms and applicable procurement statutes and regulations. Tessada & Assocs., Inc., B-293942, July 15, 2004, 2004 CPD ¶ 170 at 3.

As noted above, the agency's evaluators found that there were significant benefits to the government based on Universal's considerable experience with the identical buoy, which from the government's standpoint meant deliveries of the buoys, which

the agency had a critical need for, could begin sooner. Consistent with the RFP evaluation scheme, which for example called for evaluation of existing manufacturing capabilities, Universal's proposal received superior ratings under these factors based on its demonstrated experience and manufacturing capability in successfully producing the identical item. We find that the agency did not apply an unstated evaluation criteria, as alleged by the protester.¹

Matthews nevertheless argues that Universal's production capacity is too low to satisfy the agency's requirements. This contention is based upon its interpretation of certain documentation it obtained regarding Universal's production under a current Coast Guard contract that was not available to the evaluators during the evaluation.² Based on our review of Universal's proposal, there was sufficient information for the agency to reasonably conclude that Universal had demonstrated the manufacturing capability to produce the capacity of buoys required by the contract.

In sum the record supports the superior rating of Universal's proposal under the manufacturing approach capability and relevant experience factors.

Matthews does not claim that it had similar experience in producing the identical item, or that there were other grounds which warranted similar superior ratings be given its proposal under these factors. While Matthews asserts that its ISO (International Organization Standardization) 9001 certifications should have precluded its marginal rating under the packaging, shipping and handling operations subfactor of the quality control factor, this certification has nothing to do with the marginal rating of Matthews's proposal under this subfactor based on its failure to adequately address quality control requirements. In fact, our review confirms the reasonableness of the agency's determination that Matthews did not adequately address packaging and shipping in its proposal.

Although Matthews questions the additional price premium associated with the award to Universal, given its own technical competence to produce these buoys, where, as here, the RFP emphasizes the significantly greater importance of technical factors over price, an agency has considerable discretion, as it did here, to award to an offeror with a higher technical rating and higher price. See Tessada & Assocs.,

¹ While Matthews argues in this regard that on other procurements containing the same criteria, price was the controlling factor for award, an agency's actions under one procurement do not affect the propriety of its actions under a different procurement. See Southern CAD/CAM, B-254201, Nov. 16, 1993, 93-2 CPD ¶ 278 at 4.

² Universal has responded with specific evidence that it has the requisite capability and that Matthews's contentions are based upon a misapprehension of its capabilities.

Inc., supra, at 8. The record does not provide a basis to question the reasonableness of the agency's documented award decision.

The protest is denied.

Gary L. Kepplinger
General Counsel