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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

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Decision

Matter of: Interstate Electronics Corporation

File: B-286466; B-286466.2

Date: January 12, 2001

Jessica C. Abrahams, Esq., Carl A. Gebo, Esq., Curtis J. Romig, Esq., and William R. Joiner, Esq., Powell, Goldstein, Frazer & Murphy, for the protester.
Kerri A. Cox, Esq., Judith L. Richardson, Esq., and Gregory H. Petkoff, Esq., Department of the Air Force, for the agency.
Glenn G. Wolcott, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Where solicitation incorporated a Critical Requirements List (CRL) and expressly advised offerors that the CRL reflected the agency's minimum requirements, and agency further reminded protester during oral presentation and in subsequent written evaluation notices that all CRL items must be met, protester's assertion that the solicitation "[did] not indicate in any way that the CRL will be considered in source selection" is without basis.
2. Agency reasonably rejected protester's proposal as "not technically sound or failing to meet the agency's needs" where protester's proposal failed to provide adequate assurance that the protester's contract performance would comply with several aspects of the solicitation's minimum requirements.
3. Agency's discussions with protester were meaningful where written evaluation notices advised protester of multiple portions of its proposal which failed to comply with solicitation's minimum requirements.

DECISION

Interstate Electronics Corporation (IEC) protests the Department of the Air Force's rejection of a proposal IEC submitted in response to Program Research and

Development Announcement (PRDA) No. 00-32,¹ which sought proposals to conduct research and development related to global positioning system (GPS) ground receiver capabilities.² IEC complains that the agency improperly evaluated its proposal as being not technically sound,³ and failed to conduct meaningful discussions.

We deny the protest.

BACKGROUND

Over the last several years, the Department of Defense (DOD) has conducted market research and investigated acquisition alternatives aimed at replacing its current inventory of precision lightweight GPS receivers (PLGR).⁴ These activities led to DOD's preparation of a draft performance specification for the Defense Advanced GPS Receiver (DAGR), which reflects DOD's requirements for both handheld and "integrated" use of GPS receivers.⁵

¹ The Air Force describes a PRDA as "an Air Force-developed procedure" that is "very similar" to a broad agency announcement (BAA) (see Federal Acquisition Regulation (FAR) §35.016), in that, like a BAA, a PRDA is a publication in the *Commerce Business Daily* announcing a requiring activity's interest in obtaining research and development solutions to scientific or engineering problems. Air Force Research Laboratory BAA and PRDA Industry Guide, July 2000, at 1.

² GPS receivers provide real time position, velocity, and timing (PVT) information to tactical, strategic and other organizations in stand-alone and integrated configurations. Agency Report, Tab 11, PRDA at 2.

³ Pursuant to Air Force Regulations, proposals submitted in response to PRDAs are evaluated as "category I," "category II," or "category III" proposals. Proposals determined to be "category I" are those which are "well conceived, scientifically and technically sound," and "offered by a responsible contractor." Proposals designated as "category II" are those which are "[s]cientifically or technically sound," but "require[] further development." Proposals designated as "category III" are those which are "not technically sound or do not meet agency needs." AFMC FAR Supp. § 5335.016-90(d)(2).

⁴ DOD's Operation Requirements Document (ORD) for GPS Tactical Receivers, dated October 3, 1997, states: "As the current inventory of GPS receivers becomes obsolete, a replacement system is needed to satisfy operational requirements created by digitization of the battlefield." Agency Report, Tab 57, ORD for GPS Tactical Receivers, at 2.

⁵ "Integrated" refers to the physical integration of a GPS receiver into a platform such as a military vehicle. In describing the objective of the DAGR program, the performance specification states: "The DAGR Program will procure small

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The PRDA at issue here was published on June 20, 2000 and expressed the agency's intent to select at least two offerors to conduct research on, and perform development of, both "higher end" and "lower end" GPS receiver solutions during the 14-month period following contract award.⁶ The PRDA provided that offerors' proposals must identify specific solutions for which research and development was proposed, stating: "Each proposal may contain a maximum of one Higher End receiver solution and two Lower End receiver solutions." PRDA at 4. The PRDA further provided that, "[i]f an offeror proposes multiple receiver solutions, the price proposal shall separately price each solution (Higher End, Lower End)" and "shall include a Statement of Work (SOW) for each proposed receiver solution." PRDA at 5.

The PRDA incorporated a "Critical Requirements List" (CRL), dated April 4, 2000, advising offerors that the CRL reflected "the minimum requirements for the Higher End receiver solution," PRDA at 2, and further directing offerors as follows:

Offerors proposing a Higher End GPS Ground Receiver solution shall provide a technical description of how the proposed receiver best meets or exceeds the Critical Requirements List, dated 04 Apr 00, found in the Bidders Library. For further definition of the Government's interpretation of a Higher End GPS Ground Receiver, Offerors should refer to [the Draft DAGR Performance Specification] MIL-PRF-DAGR-600, Ver. 4.0, dated 29 Feb 00. Offerors proposing a Lower End solution shall provide a technical description of their proposed receiver(s) and identify, at a minimum, which requirements found in the Critical Requirements List, dated 04 Apr 00, will be met.

PRDA at 5.⁷

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commercial palmheld, pocket stored NAVSTAR GPS receivers modified to support military combat operations and military and civil operations other than war," and provides that the receivers "shall be . . . suitable for palmheld use and for installation and integration in vehicles and facilities." Agency Report, Tab 59, Draft DAGR Performance Specification, MIL-PRF-DAGR-600 Version 4.0, Feb. 29, 2000 ¶¶1.2, 3.1.

⁶ The PRDA explained that "Higher End solutions shall be oriented towards an 'All-in-One' solution supporting both integrated and handheld users, whereas Lower End solutions can be oriented towards either integrated users or handheld users." PRDA at 2.

⁷ The PRDA provided that awardees must deliver non-proprietary specifications for each proposed solution by the end of the contract performance period, also requiring delivery of a technical report supporting the analysis, demonstrations, inspections or tests that the awardee had performed to validate the specifications, and a "CAIV

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The CRL listed multiple specific requirements, the first of which was: “Be at least as operationally capable as the system it is replacing (PLGR family).” Agency Report, Tab 9, CRL. The CRL also established minimum requirements regarding, among other things, size, battery life, and interface protocols/data message formats. Offerors were advised that proposed solutions would be evaluated on the basis of the following criteria, listed in descending order of importance: approach to meeting the PRDA objectives, past performance, proposal risk, and price. Regarding evaluation under the most important factor, approach to meeting the PRDA objectives, the PRDA stated that the agency would consider the proposal’s “soundness” and “creativity,” explaining that “soundness” meant a proposed solution is, among other things, “based on valid reasoning; sensible; thorough; [and] complete.” PRDA at 8.

Proposals were submitted by six offerors, including IEC, by the August 7, 2000 closing date. IEC’s proposal stated: “The IEC-[deleted] team⁸] is offering a single, high end, all-in-one solution.” Agency Report, Tab 23, IEC Technical Proposal, at 1-1. Consistent with offering only a single, high end solution, IEC’s proposal contained a single statement of work and a single price proposal. IEC’s proposed solution [deleted]. IEC Technical Proposal at 1-1, 2-15.

In its proposal, IEC also included a chart listing each one of the CRL items and summarizing the extent to which each component of its proposed solution complied with the CRL requirements. IEC Technical Proposal, Figure 2-25. This chart indicated that for a number of requirements, IEC’s proposed solution was only “partially compliant subject to CAIV analysis.”⁹

On August 9, IEC provided an oral presentation to the agency during which it discussed its proposed approach and responded to oral questions. During the oral presentation, the agency reminded IEC that proposals for a higher end solution must comply with all of the PRDA requirements, including all CRL items.

The agency subsequently evaluated offerors’ proposals by dividing the PRDA’s minimum requirements into several functional groups. The offerors’ proposed approaches to meeting the stated requirements were then evaluated for technical

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[cost as an independent variable] report,” describing potential trades which may be made between performance, cost and schedule. PRDA at 2. Nothing in the PRDA suggested that the required submission of the “CAIV report” effectively negated the statements regarding minimum requirements for proposed higher end solutions.

⁸ IEC proposed [deleted].

⁹ IEC’s proposal indicated that [deleted].

soundness and creativity. Specifically, as stated in the PRDA, proposals for higher end solutions were evaluated to determine the thoroughness and completeness with which each proposal demonstrated that the specifications to be delivered would comply with all of the stated requirements. Based on their evaluations and internal discussions, “evaluation notices” (ENs) were prepared for each offeror regarding aspects of the proposals for which additional information was desired.

Specifically, the agency prepared thirty-two ENs for IEC, telecopying those ENs to IEC on August 28. Agency Report, Tab 27, Evaluation Notices. The ENs identified multiple portions of IEC’s proposal about which the evaluators had specific concerns regarding IEC’s ability or intent to meet the stated requirements. Specifically, various ENs identified concern that IEC would not comply with the CRL requirements regarding size and battery life, and the requirement that the proposed solution be as capable as the PLGR system it would replace—particularly with regard to ICD-GPS-153 messaging requirements.¹⁰ Agency Report, Tab 27, EN Nos. 190, 252, 264, 310, 314. Finally, EN No. 598 summarized the agency’s overall concerns, stating:

During numerous discussions, including the Oral presentation on 9 Aug 00, the government made it very clear that proposed solutions, in the high-end configuration [deleted] would be subject to meeting all Critical requirements

.

After reviewing your proposal, there is a concern that many of the required critical requirements were erroneously discarded as not required because of the proposed design, and hence, became CAIV [cost as an independent variable] candidates.

Because many of the Critical requirements have been marked as “partially compliant,” deemed “not applicable,” or identified as CAIV studies, it is necessary to ask for clarification on your approach for this solution and potential CAIV activities. In addition, there are several other Critical Requirements marked in Figure 2-25 as being compliant, which actually are not fully compliant.

Please explain whether you do or do not intend to achieve the Critical requirements for a High End solution during or by the end of the PRDA.

¹⁰ ICD-GPS-153 refers to interface protocols for data messaging capabilities between receivers.

If not, when you identify a potential CAIV study, as related to the critical requirements list, does this mean you are essentially asking the government to waive/reduce that requirement?

Agency Report, Tab 27, Evaluation Notice No. 598.

Upon receiving the ENs, IEC initiated a telephone conference call with agency personnel. Despite the express PRDA language establishing minimum requirements, and the unequivocal reiteration of those requirements in the ENs along with the direct admonishment that IEC's proposal failed to meet the requirements, IEC represents that, during the conference call, agency personnel "verbally assur[ed] IEC that there was nothing wrong with its proposal." Protest at 34. IEC states that "[t]hese assurances [during the conference call] convinced IEC that the ENs . . . did not indicate AFMC concerns with deficiencies or weaknesses in the proposal."¹¹ Id.

Thereafter, IEC submitted its responses to the ENs. IEC states generally that it "did not . . . attempt to significantly revise its proposal" because of its purported understanding that the ENs "did not indicate AFMC concerns." Protest at 34. In responding to the agency's specific question in EN No. 598, which asked whether IEC "intend[ed] to achieve the Critical requirements," IEC responded by asserting, without explanation, "Our intent is to provide an All-in-One solution, High End as defined by the PRDA, that complies with the Critical Requirements List." Agency Report, Tab 47, IEC Responses to EN No. 598. Nonetheless, the next sentence of IEC's response stated that: "it is our expectation that results of the CAIV will result in trade-offs of selected Critical Requirements." Id.

In short, the agency's ENs expressly reiterated the PRDA requirement that IEC's solution must comply with all CRL requirements, advised IEC that its proposal did not meet many of these requirements, and expressed concern that IEC's references to "CAIV studies" were viewed as requests to waive or reduce the minimum requirements. In response, IEC opted not to significantly revise its proposal and confirmed the agency's perception that IEC intended that its CAIV studies "will result in trade-offs of selected Critical Requirements."

Upon reviewing IEC's responses, which did not substantively respond to many of the deficiencies, the agency concluded, "We are still very concerned about [IEC's] ability and degree of interest in modifying their solution." Agency Report, Tab 47,

¹¹ The agency personnel participating in this conference call disagree with IEC's description of the conversation. The agency's Project Manager summarizes her disagreement, stating: "Under no circumstances did the Government during the telephone conversation lead [IEC] to the conclusion that insufficient response to the ENs would be acceptable." Agency Report, Tab 55, Declaration of DAGR Project Manager, at 3.

Response to ENs and Agency Dispositions. Overall, the agency concluded that IEC's proposal was category III—that is, “not technically sound or do[es] not meet agency needs”—and, by letter dated September 25, advised IEC that its proposal had not been selected for award, stating:

After evaluating your proposal and response to evaluation notices, your proposal was determined to fall into Category III This determination was based on the following:

1. Design did not support multiple requirements, including:
 - a. As capable as PLGR
 - b. Compliance with GPS-ICD-153
 - c. Battery Life
 - d. Size

Letter from Contracting Officer to IEC (Sept. 25, 2000).

Upon receipt of this notification, IEC requested a debriefing, which the agency provided on October 2. This protest was filed on October 9.

DISCUSSION

IEC first protests that it was improper for the agency to reject IEC's proposal based on the agency's perception that IEC's proposed solution would not comply with the CRL requirements because, according to IEC, “the PRDA does not indicate in any way that the CRL will be considered in source selection.” Protest at 29.¹²

As discussed above, the PRDA specifically described the CRL requirements as “the minimum requirements for the Higher End receiver solution,” PRDA at 2, and further directed that offerors proposing high end solutions “shall provide a technical description of how the proposed receiver best meets or exceeds the Critical Requirements List.” *Id.* at 5. In the unlikely event that IEC could have been confused regarding these unambiguous provisions, the agency's written evaluation notices reminded IEC that “[d]uring numerous discussions, including the Oral presentation on 9 Aug 00, the government made it very clear that proposed solutions, in the high-end configuration [deleted] would be subject to meeting all Critical requirements.” EN No. 598. On this record we find no basis for IEC's contention that the PRDA “does not indicate in any way” that the agency would consider the

¹² In a similar vein, IEC also states that “the PRDA never indicated that CRL items would form the basis for award.” Protest at 10.

CRL items in its source selection determination, and decline to further consider its arguments in this regard.

IEC further challenges the agency's technical evaluation with regard to IEC's compliance with specific CRL requirements. For example, CRL item No. 32 provided that the proposed solution must be designed "to fit in breast BDU [battle dress uniform] pocket." In its protest, IEC states: "The measurements of an actual BDU breast pocket indicate maximum usable dimensions of 6" x 4" x 2.25"." Protest at 15. IEC's protest then states that combining the [deleted] of its solution [deleted] "results in the following dimensions: [deleted]." *Id.* Notwithstanding the fact that its own representation regarding the dimensions of its proposed solution exceed what IEC, itself, describes as the "maximum usable dimensions" of a BDU breast pocket, IEC then inexplicably represents that "IEC conducted trials with the [deleted] that showed that both configurations do fit into the BDU breast pocket." *Id.* A simple review of the face of IEC's protest provides clear evidence that IEC's solution did not comply with the CRL requirement regarding size.¹³

Similarly, IEC complains that the agency's evaluation of its proposal with regard to battery life requirements was unreasonable. In this regard, CRL item No. 21 provided that higher end solutions must provide for 12 hours of "continuous" operation without changing batteries.

IEC's proposal states that its receiver would operate [deleted]. In evaluating IEC's proposal, the agency declined to consider operation in [deleted] mode as meeting the CRL requirement for "continuous" operation, noting that the reference to "continuous" operation contemplated "uninterrupted tracking." Contracting Officer's Statement at 14.

IEC complains that the agency should have considered operation in [deleted] mode--and its concomitant tracking of [deleted]--as meeting the requirement for continuous operation. We disagree. Not only does common usage of the term "continuous" reasonably connote "uninterrupted," a dictionary definition of the word specifically defines it to mean "uninterrupted extension in space, time, or sequence." Webster's Ninth New Collegiate Dictionary (1985). Very simply, operation in [deleted] mode

¹³ The DAGR Performance Specification, to which the PRDA expressly directed offerors "[f]or further definition of the Government's interpretation of a Higher End [solution]," PRDA at 5, also provided that "[t]he DAGR shall not exceed a displacement of 38 cubic inches." DAGR Performance Specification ¶ 3.5.2. IEC's own submissions further state that, even after reducing the dimension of its proposed solution from those originally proposed, its solution would still result in a receiver with a volume/displacement of slightly more than [deleted] cubic inches--that is, more than [deleted] percent greater than the maximum volume specified. IEC Comments, Nov. 20, 2000, at 30.

does not provide uninterrupted tracking of all GPS signals. On this record we find no merit in IEC's assertion that the agency unreasonably evaluated its proposal with regard to the solicitation's battery life requirements.

Next, IEC challenges the agency's assessment that its proposal failed to comply with the CRL requirements regarding support for ICD-GPS-153 interface protocols/data message formats. As noted above, CRL No. 1 required that proposed solutions "[b]e at least as operationally capable as the [PLGR] system it is replacing," and CRL No. 15 stated:

Capability to be integrated with existing navigation, C4I systems, external sensors and meet security policy requirements of integrated systems

- a. Receiver will not cause interference or failures to other systems and not be susceptible to interference or failures due to other systems
- b. Utilize ICD-GPS-153 and ICD-GPS-154 as applicable

CRL No. 15.¹⁴

In addressing this requirement, IEC's proposal contained a table listing [deleted] ICD-GPS-153 message codes. For each message, IEC's proposal indicated whether support was provided by its existing components. With regard to [deleted] of the [deleted] messages, the proposal stated that support was not provided, and further stated, "CAIV study to support this functionality." IEC Technical Proposal, Figure 2-12.

In EN No. 190, the agency advised IEC that its proposal "[d]oes not support all ICD-153 messages used by existing integrations," further noting that some ICD-GPS-153 messages were not even included in IEC's table, and concluding, "The proposed receiver is not viable for retrofit of existing PLGR integrations, unless this implementation is changed." Agency Report, Tab 32, EN No. 190, IEC Response and Agency Disposition. IEC responded to this EN stating, "[t]he precise list of message support will be refined and validated under the PRDA as part of a CAIV analysis and as results from testing with PLGR dictate." Id. Upon reviewing IEC's response, the agency concluded: "The response does not discuss an approach to achieving a complete ICD-GPS-153 implementation." Id.

After reviewing all of IEC's responses to the ENs, including its response to EN No. 598 in which IEC stated that it "expect[ed]" that its CAIV analysis "will result in trade-offs of selected Critical Requirements," along with IEC's response to

¹⁴ There is no dispute that the existing PLGR receivers support ICD-GPS-153 data messaging.

EN No. 190 which indicated that several of the ICD-GPS-153 messaging requirements would be subject to “CAIV analysis,” the agency concluded that IEC’s proposal failed to provide adequate assurance that its proposed solution would, in fact, support all ICD-GPS-153 messages and, therefore, that IEC’s solution would not be as operationally capable as the existing PLGR receivers.

In pursuing this protest, IEC argues that “the PRDA required only a demonstration of ICD-GPS-153 protocols,” Protest at 18,¹⁵ and therefore asserts that the agency erred in its conclusion that IEC’s proposal failed to meet the message format requirements. We disagree.

IEC does not dispute that the current PLGR receivers support all ICD-GPS-153 messages. On the basis of the record discussed above, the agency had more than an adequate basis to conclude that IEC failed to provide adequate assurance that it intended to, or that its proposal solution would in fact, support all ICD-GPS-153 message formats while also complying with the other stated requirements. In fact, as indicated above, in response to the EN concerning IEC’s failure to support ICD-GPS-153 messages, IEC stated it would determine the precise list of message support as part of CAIV analysis and testing. This certainly falls short of a commitment to provide support for all messages. Accordingly, we find no merit in IEC’s assertions that the agency improperly determined that IEC’s proposal failed to meet the message format requirements and, thus, would not be as capable as the existing receivers.¹⁶

Finally, IEC protests that the agency failed to engage in meaningful discussions. Specifically, IEC complains that the agency “failed miserably to bring to IEC’s attention alleged weaknesses or deficiencies in [its] proposal,” IEC Comments, Nov. 20, 2000, at 2, and—referring to the conference call initiated by IEC after receiving the evaluation notices—maintains that the agency “misled” IEC by “verbally assuring IEC that there was nothing wrong with its proposal.” Protest at 34.

¹⁵ Inconsistently, IEC expressly acknowledges that the DAGR performance specification (which was provided to offerors to define a higher end solution) “impose[s] a requirement to comply with ICD-GPS-153 messaging.” Id.

¹⁶ IEC also protests that, in evaluating proposals, the agency divided the solicitation’s requirements into several functional groups which were labeled “subfactors.” IEC complains that such labeling reflected the agency’s consideration of unstated evaluation factors. We disagree. Based on our review of the record, it is clear that the agency’s consideration of the stated requirements in functional groups did not introduce any additional evaluation criteria that had not been clearly disclosed in the CRL and the PRDA. Accordingly, IEC’s complaint that the agency evaluated proposals on the basis of unstated evaluation factors is without merit.

Where discussions are conducted in negotiated procurements,¹⁷ those discussions must be meaningful. That is, agencies are required to lead offerors generally into those areas of their proposals requiring amplification or revision.¹⁸ PeopleSoft USA, Inc., B-283497, Nov. 30, 1999, 2000 CPD ¶ 25 at 4-6. Nonetheless, where an agency's discussions convey its overriding concern that an offeror will not comply with all of the solicitation's requirements and identifies multiple proposal deficiencies which, if uncorrected, properly supports rejection of the proposal, the agency has met its obligations in this regard. Id.

Here, in addition to identifying specific concerns regarding size, see EN No. 264, battery life, see EN Nos. 310, 314, and support of ICD-GPS-153 messages, see EN Nos. 190, 252, the agency also expressly advised IEC of its overall concern that IEC intended to eliminate various stated requirements through "CAIV studies." See EN No. 598. As discussed above, IEC's failure to provide adequate assurance that it would, in fact, deliver a product meeting the agency's requirements provided more than an adequate basis for the agency to reject IEC's proposal. On this record, the agency's communications clearly met the standard for meaningful discussions.¹⁹

Finally, regarding IEC's assertion that it was "misled" into believing that the agency considered its proposal as meeting the solicitation's requirements, in light of the

¹⁷ This acquisition was clearly conducted as a negotiated procurement. The Air Force's own Industry Guide states that PRDAs are issued "with the intent to solicit competitive proposals," Air Force Industry Guide for BAAs and PRDAs, at 1, and the express terms of this PRDA stated that "award decisions will be based on a competitive selection of proposals." PRDA at 8.

¹⁸ In defending against this protest, the agency has argued, among other things, that the ENs constituted "requests for technical clarifications," rather than discussions. In light of the multiple proposal deficiencies the ENs identified, the communications clearly constituted discussions, triggering the requirement that the discussions be meaningful.

¹⁹ In the debriefing, the agency identified various additional areas of IEC's proposal that constituted weaknesses/deficiencies. IEC complains that some of these areas were not covered by the 31 ENs it received. Since it is clear that the agency identified the multiple deficiencies discussed above, which constituted ample basis for rejecting IEC's proposal, even if IEC were correct that its proposal contained additional deficiencies that were not identified, that fact would not provide a basis for sustaining IEC's protest.

multiple, written statements contained in the ENs unambiguously advising IEC to the contrary, IEC's assertion that it was "misled" is simply not credible.

The protest is denied.

Anthony H. Gamboa
Acting General Counsel