

**Recommendation of the Office of Dispute Resolution**  
**In the Protest of Symetrics Industries, Inc.,**  
**under Solicitation DTFA06-96-R-33034. Docket No. 96-ODR-00016**

Appearances:

For the Protester: Joseph S. Tirado, Director of Marketing

For the Contracting Office: Richard Gaiser, Office of Assistant Chief Counsel, FAA Southern Region.

For the Interested Party: David Zadick, Vice President, Dialogic Communications Corp.

**I. Introduction**

On October 8, 1996, Symetrics Industries, Inc., protested to the FAA's Office of Dispute Resolution, (ODR), the award to Dialogic Communications Corporation under Solicitation DTFA06-96-R-30034. Tab (1). That award was a fixed-price supply contract for 12 automated notification systems for the agency's emergency command, control, and communications network. The systems are used to provide prompt notification of aviation related accidents and events to agency executives and other responsible authorities. The solicitation was issued on a "best value" basis, whereby the agency reserved the right to award to other than the low priced offer where justified by technical advantages. Symetrics claims that the award to Dialogic at \$271,500 was unjustified under the award criteria, as its own system was technologically superior at a price of [\* \* \* \*]. For the reasons discussed below, we deny the protest.

All document references are to the attached list of exhibits, Tabs (1) through (10).

**II. Findings of Fact**

Solicitation DTFA06-96-R-30034 was issued by the FAA's Southern Region Office in Atlanta, Georgia, on August 7, 1996. Tab (2). The solicitation called for the provision of 12 automated notification networks meeting the generalized, performance based specifications in Section "C." Tab (2). The solicitation listed five requirements that the awardee must meet, followed by a list of seven "General Requirements," which detailed the minimum functional capabilities required of the system. There were also two lists of minimal technical requirements relating to the hardware and training associated with the

systems. (pages 3 and 4). These lists were preceded by notation that they were minimum requirements, and that the items furnished should be "equal to or better than the following."

The solicitation's award scheme was contained in Section "M," which provided as follows:

#### SO-11 AWARD

Award will be based on best value to the FAA considering:

a. Total cost to FAA

a.

a. Cost Realism (whether or not offeror's price demonstrates a clear understanding of the requirement)

c. Technical acceptability/technical excellence of system offered

d. Past performance

Tab (2)

The solicitation was mailed to 43 companies who responded to the agency's announcement. Four offerors responded with proposals. Two proposals were promptly rejected on price or technical grounds. The two remaining proposals, Symetrics and Dialogic, were submitted to a six-member technical evaluation team. See Tabs (3) and (4). Symetric's price was [\*\*\*], Dialogic's was \$271,500.

The technical evaluation team reviewed both proposals and posed a number of inquiries. These inquiries were forwarded to the offerors for answers and clarifications on September 4, 1996. Based on those answers, a draft technical report was prepared on September 9, that contained an analysis of the relative merits of the two companies' proposed systems. Tab (5).

The contracting officer reviewed the technical team's draft report, and asked that it be reformatted to parallel the requirements contained in the solicitation. The team responded with a two page summarized report of September 24, that scored each of the five requirements and seven "General Requirements" with ratings of "meets," "Exceeds," or "Far Exceeds." See Tab (6). The abbreviated notes on the two page summary refer to the explanations previously given for ratings of "technical excellence" in the earlier, September 9 draft. The evaluators also supplied a guideline of the standards they employed in arriving at the ratings for each specification or requirement. See Tab (7).

The evaluators' conclusion was that Symetrics met each of the five requirements and the seven "general requirements." In contrast, Dialogic achieved a score of "Exceeds" in three, "Far Exceeds" in two others, and met the remaining seven. See Tabs (5) and (6).

Based on the technical findings, the contracting officer conducted the price/technical trade-off required by Section "M" of the solicitation, and concluded that the Dialogic offer was the "best value" in accordance with the stated award scheme. Accordingly, on September 27, 1996, award was made to Dialogic. [Tab (3)].

Notification of the award was made to Symetrics on October 3, [Tab (8)], and this protest to ODR followed. The protest was assigned to a Dispute Resolution. A teleconference was held between the protester, the agency, and ODR on January 9, 1997. The substance of that teleconference is contained in Tab (9). In response to that memorandum, on January 28, the agency submitted the explanation of technical scores contained in Tab (10).

### III. Issues Presented

1. Was the agency's determination of the technical superiority of the Dialogic system rationally based.
2. Was the contracting officer's price/technical trade-off rationally based.

### IV. Analysis

In making a recommendation concerning all substantive protest issues, the FAA's Office of Dispute Resolution will apply the standard of review applicable under the Administrative Procedures Act, 5 U.S.C. 706. Agency actions will be upheld so long as they have a rational basis, are neither arbitrary capricious or an abuse of discretion, and are supported by substantial evidence. Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 91 S. Ct. 814, (1971).

#### *1. The technical evaluation*

The essence of this protest hangs on the adequacy of the technical evaluation which concluded that the Dialogic's proposal was superior in five out of the twelve areas examined. As noted above, the evaluation was performed in two steps. The draft report of September 9, 1996, must be read in conjunction with the September 24 summary findings, both of which were drafted prior to award. Those findings are further explained by Tab (10), the January 28 supplementary report that was prepared in response to the protest. As noted in both original documents, little or no explanation was deemed necessary in areas where the offerors received a score of "Meets;" rather, the explanatory notes concern those areas where Dialogic attained scores of "Exceeds" or "Far Exceeds."

With respect to the first five requirements, both offerors received "meets" across the board except for requirement # 1, where Dialogic attained an "E." According to the draft

report, the summary scores, and the January 28 supplementary report, the evaluators were impressed with the Dialogic capability to call each individual in the database for periodic updating. The Symetrics system does not have this capability. With respect to requirement #4, the summary report does note security concerns with the protester's off-the-shelf software, but nonetheless assigns a rating of "meets".

Moving into the seven "general requirements," the evaluators gave marks of "Far Exceeds" to Dialogic in requirements #1 and #2, while Symetrics received an "M." In support of this, the technical team cited several aspects, including Dialogic's ability to prioritize notification scenarios, suspend ongoing notification, override preset notifications, and utilize existing conferencing capability. In contrast, throughout these technical areas, the team noted aspects of the Symetrics system that, while still acceptable, were considered inferior to Dialogic's. These included lack of capability to suspend or prioritize, and the need to terminate lower priority notifications to address higher priorities. See Tabs (5), (6) and (10).

Dialogic also attained scores of "Exceeds" in general requirements #5 and #7. In support of this, the contemporaneous notes and explanations cite to features such as the LAN-based stand-alone nature of the system, the methodology for developing incident scenarios, flexibility in specifying persons to be notified, and method of notification. In contrast, the evaluators noted certain limitations of the Symetrics system, including: reliance on Operations Center personnel for development, the use of a predetermined format not in use at any Operations Center, and the limitation to one alpha-numeric paging company. See Tabs (5) and (6).

The summary evaluation also contains two notes on the second page which bear on this issue. These indicate that the Symetrics system, as originally proposed, completely failed to meet general requirements #1 and #5. It was during the discussion phase that Symetrics agreed to modifications which would address those problems. Based on those assurances, the evaluators assigned a score of "meets" to both requirements.

These explanations are rationally based and are supported by the contemporaneous documentation. Out of twelve total factors reviewed, Dialogic's initial proposal achieved three "E's" and two "FE's," whereas Symetrics was initially unacceptable and required discussions and modifications to its proposed system to reach the "meets" level in all factors. While the protester may dispute agency's judgment, that alone is insufficient to overturn the FAA's technical evaluation where the contemporaneous documentation supports each of the findings with a clear explanation of the proposals' respective strengths and weaknesses. Rockwell International Corp, 96-1 CPD 34, Systems Resource Corp, 96-1 CPD 69. Under these facts, we believe that the agency's technical findings were rationally based and should be upheld.

*The price/tech trade-off.*

Since the solicitation made clear that this was a best value procurement in which technical factors could justify award at a higher price, the final question is whether the

contracting officer's decision to pay an additional [\$33,500] was rational. To gain perspective, we note that this figure represents a premium of approximately 9% for the Dialogic system.

Two of the evaluators' notes appear to bear heavily on this point. The first, from the second page of the initial, draft evaluation, states that:

The level to which the Dialogic system uses our existing conferencing capability, (for which we paid \$750,000 per site), creates a new and valuable asset beyond the automation of notifications. The committee felt that this ability alone would justify the purchase of the Dialogic system. Symetrics does not provide this capability.

The second notation is from paragraph 1 b. of the draft report where the evaluators explain the benefits of Dialogic's greater flexibility in notifying people by groups, lists, and individuals. The technical evaluators noted that this flexibility was important because of the nature of the FAA's business, "since most FAA Regions act as independent entities." Taken together, these notes indicate that the Dialogic proposal's technical superiority would have a major impact on the agency's business. Given the need for these systems, we believe that the contracting officer's decision was supported by substantial evidence, and we cannot say that she acted irrationally in opting to pay an additional 9%.

#### V. Conclusion

For the reasons stated above, we conclude that the agency's technical evaluation was rationally based and supported by substantial evidence. Likewise, the price/technical trade-off was rationally based, and the award was consistent with the stated criteria. Accordingly, we recommend that the protest be denied.

William R. Sheehan

For the Office of Dispute Resolution