

01268

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**FILE:** B-186315

**DATE:** November 8, 1976

**MATTER OF:** Tracor, Inc.

**DIGEST:**

1. Although it is clear that RFP did not meet "relative importance of evaluation factors" disclosure requirement of our decisions and ASPR, since protester assumed correctly that point 1, Technical Approach, was most significant factor and since protester's and competitor's proposals were essentially equal and near maximum score on other points, we do not believe that protester was prejudiced by RFP's failure to disclose relative importance of evaluation factors.
2. Concerning protester's contention that it was prejudiced because it assumed incorrectly that each subfactor was listed in descending order of importance, we have held that there is no obligation to advise offerors of relative importance of evaluation subfactors, or to list subfactors in descending order of importance, if they are to be considered of equal or approximately equal importance. Since subfactors were approximately equal in importance, we believe that RFP reasonably advised offerors of evaluation criteria to be applied.
3. RFP provided that award will be made to that technically acceptable offeror whose technical and price proposal was most advantageous to Government, "price and other factors considered." Protester's contention, made after award, that RFP failed to advise offerors of relative importance of price to other factors is untimely under subsection 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1976), since alleged impropriety was apparent prior to closing date for receipt of initial proposals.
4. Protester contends that procuring agency had strong preference for disk-type pallet over PCB-type pallet and that agency's failure to notify all competitors of such preference had prejudicial effect on competition. Where competing offerors' proposals were acceptable and satisfied RFP requirement using two distinct state-of-the-art approaches, agency had no duty to amend RFP to specify particular approach.

5. Where RFP inconsistently states that award will be made to firm submitting "lowest evaluated acceptable offer," and that award will be made based on the most advantageous proposal "price and other factors considered," Order of Precedence Clause of RFP indicates that latter basis is proper basis for award.
6. Although protester's contention that agency erroneously computed scoring of technical evaluation factors, by failing to weigh factors as intended, is correct, proper computation of scoring results in approximately same percentage difference (5.1 versus 5.15 percent). Accordingly, we cannot perceive that protester was prejudiced by erroneous computation.
7. Agency failed to recognize ribbonless operation capability of protester's equipment during initial technical evaluation of proposals. After award agency reevaluated proposals taking this feature into consideration and concluded that it did not substantially affect its decision because of other advantages of competitor's equipment in that evaluation category. Since procurement officials enjoy a reasonable degree of discretion in evaluating proposals and their determinations are entitled to great weight, on basis of record, we cannot conclude that agency acted arbitrarily.
8. Protester contends that agency's conclusion that disk can be changed more simply than PCB is based on generalized information and not concrete facts. Since operator may attempt to insert PCB upside down but such error is not possible with disk, on whole, we believe that agency's conclusion is based on reasoned judgment of its source selection personnel in accordance with established evaluation factors.
9. Contention that protester was prejudiced because evaluators examined competitor's disk during evaluation is without merit because there was no need for experienced technicians to examine PCB because PCB's have been very common for many years.
10. Contention that pallet storage characteristics and field-reprogramming capability were improper evaluation criteria is without merit since agency reasonably considered them to be within purview of listed subfactor, "ease of operation and maintenance."

11. Protester contends that pallet storage characteristics and field-reprogramming capability should not have been considered by agency Procurement Review Board because such features were not scored by technical evaluators. Since such features were within listed evaluation criteria and technical point scores are merely useful guides to agency source selection, it was entirely proper for Board to consider such features as explained to it by evaluators even though such features were not scored.
12. Protester contends that its teleprinter has fewer total parts resulting in easy maintenance at low cost. Agency indicates that competitor's unit is better because its printhead has fewer moving parts resulting in less maintenance at user level. Although protester disagrees with agency's technical judgment on this point, our examination of record does not reveal grounds to conclude that agency acted arbitrarily or unreasonably in its evaluation of this point.
13. Contention first made in letter dated July 30, 1976 (received in our Office August 4, 1976), that other offeror's proposal does not satisfy requirements of RFP is untimely under subsection 20.2(b)(2) of our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(2) (1976), since basis of protest was known on July 1, 1976, and was not filed in our Office within 10 working days.
14. Agency initially evaluated proposals and made award based on improper evaluation criteria. After protest, agency noticed its mistake, reconsidered its decision and again selected same firm. During development of protest, agency was made aware of another error, reconsidered, and again determined that its source selection was justified. Contention that reconsiderations were invalid because contemporaneous documentation was not prepared is without merit because adequate documentation to support decision now exists and time of preparation does not affect substance of justification.

Tracor, Inc., protests the award of a contract to Motorola, Inc., under request for proposals (RFP) M00027-76-R-0006 for 50 modified teleprinters and technical data with options for stock repair parts and factory training.

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The RFP, issued by the United States Marine Corps on September 5, 1975, contained a statement of work which stated that the contractor would be required to provide a teleprinter of his own manufacture, modified to receive and print messages transmitted under any one of 25 codes. Further, the teleprinter construction was to permit rapid changes in code or language format and the device (referred to as a "pallet") employed by the contractor to provide necessary modification was to be of a type selected by the contractor. The RFP required both technical and price proposals. The RFP outlined the requirements and criteria which were to be met by a proposal in order for it to be considered acceptable.

Offers were received from Motorola, Tracor and Teletype Corporation. After evaluation it was determined that the offer of Teletype was unacceptable and it was so advised. Discussions were conducted with Tracor and Motorola between January 28, 1976, and February 4, 1976. Best and final offers were received from both parties and technical ratings were announced as follows:

	<u>MOTOROLA</u>	<u>TRACOR</u>
Technical Rating	93.45 percent	88.35 percent
Total Offer (including freight costs)	\$1,224,063	\$1,162,687

Although the Motorola evaluated price was \$61,376 more than Tracor's price, the Marine Corps believed that the value of the Motorola technical approach outweighed the price difference. Tracor was advised by the Marine Corps by letter dated April 5, 1976, that the technical advantage in the ease of operation and maintenance of the Motorola teleprinter was the basis for its selection.

Tracor requested and was granted a debriefing on April 12, 1976. At the debriefing, the Marine Corps explained that "ease of operation and maintenance" was worth 8 of 46 total points for Technical Approach and that Motorola's proposal scored 86.25 percent and Tracor's proposal scored 60 percent in that category. Specifically, the Marine Corps' reasons were as follows: (1) the Motorola pallet, a coding disk, could be changed faster than the Tracor pallet, a printed circuit board (PCB); (2) Motorola's printhead design was more electrical than mechanical; (3) Tracor's pallet replacement cost was substantially higher than Motorola's; (4) Motorola's pallet could be reestablished by field-reprogramming a new disk; (5) additional codes could be established

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on the Motorola disk in the field; (6) the life-cycle cost of the Motorola disk was less than that of the Tracor PCB; and (7) the Motorola equipment had no ribbon and would require less first and second echelon maintenance.

By letter dated April 12, 1976, Tracor protested the award to Motorola, indicating that Motorola's equipment was not technically more advantageous than its equipment and that the award was based on technical evaluation factors not set forth in the solicitation.

After Tracor's protest, it appears that the Marine Corps noticed that the original award was based on several factors not mentioned as evaluation criteria in the RFP. The Marine Corps then reevaluated the proposals and again concluded that the technical advantages of Motorola's equipment outweighed the price differential. The basis for its decision was outlined in its administrative report dated May 28, 1976, as follows: (1) the Motorola pallet could be changed faster than the Tracor pallet; (2) the Motorola pallet could be more easily stored in quantity, thus making it more accessible to the user; (3) the Motorola printhead had fewer moving parts resulting in less lower echelon maintenance; (4) the Motorola pallet could be reestablished in the field; and (5) the Motorola unit required no ribbon. Pallet replacement cost and pallet life-cycle cost were not considered in the evaluation but the capability of the Motorola pallet to have additional codes established on it in the field, while not scored as a technical evaluation factor, was considered in the Procurement Review Board's decision to award to Motorola.

In response to the Marine Corps' report, Tracor contended that (1) its pallet could be changed just as fast as the Motorola pallet; (2) there was no pallet storage requirement specified in the RFP; (3) Motorola printhead may have fewer moving parts but Tracor's equipment has fewer total parts resulting in lower cost maintenance; (4) there was no field reprogramming requirement in the RFP; and (5) the Tracor teleprinter may be operated with or without a ribbon.

In an effort to resolve the factual disputes and clarify the issues, a conference was held in our Office on July 1, 1976. The Marine Corps was represented by counsel, the contracting officer, its technical advisor, and two members of the four-member technical

evaluation team. Motorola and Tracor were also represented. Three areas were discussed. First, the Marine Corps expressed its technical judgment that the Tracor pallet, a PCB, could be put in upside down in a stressful situation, whereas the Motorola pallet, a disk, could not. As such, the Motorola design would insure a quicker change consistently, even though the Tracor pallet might be changed just as fast as the Motorola pallet in any given test. The Marine Corps also indicated that it had obtained a Motorola disk from the Army and examined it during the technical evaluation but no PCB was examined since the evaluators were familiar with PCB's.

Secondly, the Marine Corps explained that the Motorola pallet's capability to be reestablished in the field was not scored in the technical evaluation; however, this advantage could not be ignored in the source selection. The Marine Corp. considered this capability to be within the concept of "ease of operation and maintenance" mentioned in the RFP. Thirdly, the Marine Corps agreed that both the Tracor and Motorola equipment could be operated without a ribbon.

After the conference, the Marine Corps commented by letter dated July 9, 1976, that the deletion of Motorola's advantage of ribbonless operation would not substantially affect its source-selection decision. The Marine Corps' July 9, 1976, report also included the technical evaluation plan and guidelines, and the four evaluators' score sheets. With the permission of the Marine Corps, copies of all material accompanying its report were given to counsel for Tracor.

Also by letter dated July 9, 1976, counsel for Tracor summarized its contentions. First, Tracor contended that there was no valid basis in the eight identified technical reasons to justify award at a higher cost to Motorola. With regard to the time required to change pallets, Tracor stated that the Marine Corps had based its judgment on generalized information and not concrete facts (such as time studies) and that Tracor was placed at a competitive and unfair disadvantage, due to the fact that the evaluators asked for and received a Motorola disk during the evaluation. Tracor also stated that any difference in the approach to the printhead was described by the Marine Corps as a very "minor item." Tracor further argued that the "field-reprogramming" feature, the capability to establish additional codes in the field and the pallet storage requirement were technical evaluation factors not listed in the RFP and, therefore, they should not have been considered in making the award.

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Finally, Tracor contended that its equipment's capability to operate without a ribbon using impact paper and to operate using a ribbon offered greater flexibility than the Motorola equipment, which offered just ribbonless operation; and, therefore, Tracor's score in "ease of operation and maintenance" should be adjusted upward and Motorola's score should be decreased.

Secondly, Tracor contended that the Marine Corps was required to advise all competitors of its distinct preference for disks over PCB's.

Thirdly, Tracor contended that the evaluation factors as listed in the RFP were misleading in that it reasonably believed that the factors would be weighed in a manner considerably different than they were.

Subsequent to filing its July 9, 1976, document, Tracor received the enclosures to the Marine Corps' July 9, 1976, submission, which included the technical evaluation and source-selection documents mentioned above. Based on its analysis of that information by letter dated July 30, 1976, Tracor argued that: (1) the Marine Corps failed to weigh the evaluation factors in accordance with preestablished weights; (2) the Marine Corps failed to disclose its preference for a disk over a PCB; (3) the Marine Corps used improper factors in its evaluation of equipment in the area of "ease of operation and maintenance"; and (4) the Marine Corps' post-protest reconsideration did not validate this otherwise invalid procurement. Based on other information, Tracor additionally argued that Motorola's technical proposal did not meet the Marine Corps' specifications.

The Marine Corps responded, by letter dated August 16, 1976, and concluded that the Motorola equipment was technically superior to the Tracor equipment and that such superiority justified the award to Motorola at the higher cost.

By letter dated September 3, 1976, the Marine Corps informed our Office that it was in the process of making a determination that it was necessary to proceed with performance of the contract. By letter of the same date, Tracor was advised that Motorola was authorized to proceed with contract performance.

For the reasons that follow, under four principal areas of consideration, the protest is denied.

I. MISLEADING EVALUATION FACTORS

A. Relative Importance of Nonprice Considerations

On pages 18 and 19 of the RFP, it was stated as follows:

"EVALUATION FACTORS

Award will be made to that technically acceptable offeror whose technical and price proposal will be the most advantageous to the Government, price and other factors considered. In order to be considered acceptable, technical proposals must meet the requirements and criteria for technical proposals set forth in Section C herein, particularly as they relate to the following:

"1. Technical Approach

"a. The ability of the teleprinter to provide the symbol repertoire identified by Appendix 1 of the Statement of Work.

"b. The ability of the teleprinter to meet the requirements of paragraphs 3.2 and 3.10 \* \* \* [thru] 3.14 the Statement of Work.

"c. The ability of the teleprinter to operate over the Input Power requirement as specified.

"d. The ability of the teleprinter to meet or exceed the reliability specified.

"e. The ease with which the teleprinter can be operated and maintained.

"f. The ease with which the teleprinter and associated installation kit can be installed in the AN/TSQ-88 and AN/TSQ-89.

"2. Organizational, Personnel and Facilities Approach

"a. Previous experience in developing this particular type of equipment.

"b. Qualification of personnel.

"3. Completeness and thoroughness of the technical proposal."

Tracor contends that it reasonably assumed that the various factors in the RFP were listed in descending order of importance, that is point 1 would be more important than points 2 and 3, and point 2 would be more important than point 3. Similarly, Tracor contends that each of the subfactors within each point was listed in descending order of importance. The record shows that point 1, Technical Approach, was worth 46 points and both points 2 and 3, Organization, Personnel and Facilities Approach, and Completeness and Thoroughness of the Technical Proposal, respectively, were worth 15 points each. Also, the subfactors of each point were not listed in descending order of importance.

Tracor contends that our Office has held that the failure of an RFP to inform offerors of the relative importance of the evaluation factors is contrary to the dictates of sound procurement policy. Further, Tracor contends that it was prejudiced because the subfactor "ease of operation and maintenance," where it lost the competition, was much more important than the RFP led Tracor to believe.

On the other hand, the Marine Corps contends that the RFP set forth the evaluation factors in their relative order of importance, in that point 1 was worth 46 points and points 2 and 3 were each worth 15 points.

We have consistently recognized that offerors should be advised of the evaluation factors to be used in evaluating the proposals and the relative weight of those factors, since competition is not served if offerors are not given any idea of the relative value of technical excellence and price. AEL Service Corp., 53 Comp. Gen. 800 (1974), 74-1 CPD 217; Signatron, Inc., 54 Comp. Gen. 530 (1974), 74-2 386; PRC Computer Center, Inc., 55 Comp. Gen. 60 (1975), 75-2 CPD 35;

Group Operations, Incorporated, B-185871, July 26, 1976, 55 Comp. Gen. \_\_\_\_\_, 76-2 CPD 79. Similarly, paragraph 3-501(b) Sec. D(1) of the Armed Services Procurement Regulation (ASPR) (1975 ed.) provides that when an award is based on technical and other factors, in addition to price or cost, the RFP shall clearly inform offerors of the significant evaluation factors and the relative order of importance that the Government attaches to price and all such other factors.

Although it is clear that the language of the RFP does not meet the "relative importance of evaluation factors" disclosure requirement of our decisions and the ASPR, since Tracor assumed correctly that point 1, Technical Approach, was the most significant factor and since Tracor's and Motorola's proposals were essentially equal and both scored near the maximum number of points on points 2 and 3, we do not believe that Tracor was prejudiced by the RFP's failure to disclose the relative importance of the evaluation factors.

Tracor also contends that it was prejudiced because the subfactor "ease of operation and maintenance," where it lost the competition, was, in its view, much more important than the RFP indicated. We note that Tracor assumed that the evaluation subfactors were listed in descending order of importance; however, there was nothing in the RFP to provide a basis for Tracor's assumption. In addition, we have held that there is no obligation to advise offerors of the relative importance of evaluation subfactors, or to list such subfactors in descending order of importance, if they are to be considered of equal, or approximately equal, importance. 51 Comp. Gen. 272, 281 (1971), modified on other grounds, AEL Service Corp., supra. Since the category, "ease of operation and maintenance," within point 1, Technical Approach, was worth only 8 of 46 points for Technical Approach, and since each of the subfactors was approximately equal in importance, we believe that the RFP properly advised prospective offerors of the evaluation criteria to be applied, insofar as the technical evaluation factors are concerned. Therefore, it is our view that Tracor had no basis to assume that the subfactors were listed in descending order of importance.

#### B. Relative Importance of the Price

The RFP provided that the award will be made to that technically acceptable offeror whose technical and price proposal will be most advantageous to the Government, "price and other factors considered."

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Tracor contends the RFP is defective in that it totally failed to advise offerors of the relative importance of price to the technical evaluation factors of the procurement. Tracor relies on our decision in Signatron, Inc., supra, in which our Office stated that we believe that each offeror has a right to know whether the procurement is intended to achieve a minimum standard at the lowest cost or whether cost is secondary to quality. Tracor concludes that obviously cost was secondary to technical scoring in this procurement and that it was prejudiced by not being so advised in the RFP.

We believe that Tracor's contention concerning the adequacy of disclosure of the relative importance of price to the technical evaluation factors is untimely under subsection 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1976), since the alleged impropriety was apparent prior to the closing date for receipt of initial proposals. BDM Services Company, B-180245, May 9, 1974, 74-1 CPD 237; Honeywell Inc., B-184245, November 24, 1975, 75-2 CPD 346; Marine Management Systems, Inc., B-185860, September 14, 1976.

C. The Alleged Undisclosed Preference for Disk-Type "Pallet"

The RFP provided that the teleprinter construction shall permit rapid changes in code or language format such that the decoding circuitry necessary to change the signaling alphabet to the printing alphabet can be readily changed by the operator. For the purpose of common identification among competing offerors, the device employed to modify standard teleprinters in order to meet the code changing requirement was referred to as a "pallet." Offerors were required to provide for 25 different pallets. Offerors were permitted to select the type of pallet provided their choice met the requirements of the RFP.

Tracor contends that the Marine Corps had a strong preference for the use of the disk-type pallet (offered by Motorola) over the PCB-type pallet (offered by Tracor). Tracor bases its contention on a note to the category of "ease of operation and maintenance" contained on the tabulation sheet provided to each technical evaluator:

"NOTE: Scoring should be based primarily on the ease with which the operator can change operating 'pallets.'"

Tracor argues that the Marine Corps' emphasis on ease of pallet change in the "ease of operation and maintenance" category would clearly have a material effect on scoring in this category and such scoring would have favored a disk over a PCB. Further, Tracor contends that the failure of the Marine Corps to notify all competitors of this important technical preference in the RFP had a prejudicial effect on the competing offerors; if the Marine Corps did not determine its preference until after the RFP had been issued, the RFP should have been amended so that offerors could revise their proposals to negotiate on a meaningful basis. In support of this contention, Tracor cites our decision in Signatron, Inc., supra, and our decision at 50 Comp. Gen. 117 (1970).

The Marine Corps states the emphasis on changing pallets with ease is logical in view of the purpose of the equipment. The Marine Corps also states that it had no preconceived preference for a disk-type pallet. It had a requirement for teleprinters to monitor codes and each offeror was expected to use available technology to meet the requirement.

Our decision at 50 Comp. Gen. 117, supra, cited by Tracor, concerned an RFP issued by the Office of Economic Opportunity (OEO) for a survey of minority manufacturing firms. There, the RFP did not indicate that on-site observations were either expected or desired or that such a procedure would be a factor for consideration in the evaluation. One firm initially offered on-site interviews and observation. OEO believed that such information would be beneficial in accomplishing its needs and it was willing to make additional payment for the extra effort involved, but OEO did not advise the other offerors of this preference during the negotiations. We concluded that the RFP should have been amended so that all procedures and information deemed essential to proper performance of the contract would have been shown, in order that the proposals and their evaluation could have been based on uniform requirements and criteria. We also stated that:

"When negotiations are conducted the fact that initial proposals may be rated as acceptable does not invalidate

the necessity for discussions of their weaknesses, excesses or deficiencies in order that the contracting officer may obtain that contract which is most advantageous to the Government. We have stated that discussions of this nature should be conducted whenever it is essential to obtain information necessary to evaluate a proposal or to enable the offeror to upgrade the proposal. \* \* \*" 50 Comp. Gen. at 123.

Tracor also relies on our decision in Signatron, Inc., supra, which concerned an RFP issued by the Defense Communications Agency (DCA) for a simulation system to operate "simplex" but designed to later provide for "duplex" operation. Signatron offered such a system. Another firm offered a system with both "simplex" and "duplex" operation. During the evaluation of proposals, it was determined that "duplex" capability was immediately required. Since this requirement was not communicated to the other offerors, we concluded that such requirement should have been communicated to all offerors.

Our situation is unlike the case in 50 Comp. Gen. 117, supra, where the Government changed its requirements during the negotiations and the case in Signatron, where the Government changed its requirements during the evaluation of proposals. Here, the Marine Corps' requirement was unchanged. Both proposals were acceptable and satisfied that requirement using two distinct state-of-the-art approaches. Both proposals were evaluated against the factors stated in the RFP. We can only conclude that the fundamental principle of competitive negotiation that the agency treat all offerors equally was not violated by the Marine Corps in this procurement. Accordingly, we must conclude that the Marine Corps had no duty to amend the RFP to specify a disk-type pallet.

## II. BASIS OF AWARD

Tracor argues that the award must go to the firm making the lowest offer, regardless of the difference in technical scoring, as long as the proposals are acceptable. Tracor relies on the following language in Part I, Section C, "INSTRUCTION, CONDITIONS AND NOTICES TO OFFERORS," of the RFP:

"SINGLE AWARD

"It is the Government's intention to make one award, as a lot, to the firm submitting the lowest evaluated acceptable offer."

Tracor concludes that since both proposals were acceptable, it, as the lowest offeror, was entitled to the award.

The Marine Corps contends that the purpose of the above-quoted language was to notify offerors that only one award would be made. The Marine Corps further contends that the following language from Part II, Section D, "EVALUATION AND AWARD FACTORS," clearly informed offerors of the basis for award and evaluation:

"EVALUATION FACTORS

"Award will be made to that technically acceptable offeror whose technical and price proposal will be the most advantageous to the Government, price and other factors considered. \* \* \*"

Also, the Marine Corps notes that the RFP contains an Order of Precedence clause which renders first priority to the Schedule in the resolution of solicitation inconsistencies.

We believe that the single award section ("the lowest evaluated acceptable offer") is inconsistent with the evaluation factors section ("most advantageous to the Government, price and other factors considered"). Under the provisions of the Order of Precedence clause of the RFP such inconsistency should have been resolved in favor of the evaluation factors section because it is in the schedule of the RFP, which had first priority. Therefore, we agree with the Marine Corps' position on this issue.

III. ERRORS IN EVALUATION

A. Failure to Weigh Factors as Intended

After the conference at our Office, the Marine Corps released information concerning its intended method of scoring the technical evaluation factors and the results of such scoring.

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Tracor contends that the Marine Corps averaged each evaluator's score without considering relative importance of factors and then averaged the four evaluators' unweighed averages to arrive at the technical score of 88.35 for Tracor and 93.45 for Motorola. Tracor thus argues that this erroneous computation of scores resulted in the Marine Corps believing that the technical difference between proposals was approximately 5.1 percent. Based upon our calculations, the proper computation should have resulted in scores of 87.98 for Tracor and 93.13 for Motorola, which we note results in a difference between proposals of 5.15 percent or approximately the same amount as the computation used by the Marine Corps. Accordingly, we cannot perceive that Tracor was prejudiced by the erroneous computation of scores.

B. Failure to Recognize Ribbonless Operation Capability of Tracor Unit in Scoring

During the evaluation of proposals, the Marine Corps' evaluators mistakenly believed that the Tracor's teleprinter did not have ribbonless operation capability. When the Marine Corps recognized this capability after award, it reevaluated the Tracor proposal and concluded that such capability did not substantially affect its source-selection decision because of the other advantages of the Motorola proposal in this area. The evaluators scored the ribbonless operation capability within the "ease of operation and maintenance" category, which was scored before award as follows:

	<u>Motorola</u>	<u>Tracor</u>
Evaluator M	50	70
Evaluator B	100	95
Evaluator J	100	25
Evaluator C	95	50
TOTAL	<u>345</u>	<u>240</u>
Average	86.25	60.00

The record does not indicate the precise relative weight of ribbonless operation to other factors within this category. Neither is there any indication that additional scoring was performed by the Marine Corps after award.

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Tracor contends that an accurate scoring of this factor should result in an upward adjustment of Tracor's score and a downward adjustment of Motorola's score because the Tracor unit can print with a ribbon or without a ribbon on ribbonless impact paper whereas the Motorola unit cannot print with a ribbon.

While it may be that consideration of the Tracor unit's ribbonless operation capability would have improved its relative standing in the technical evaluation, it is not the function of our Office to evaluate proposals in order to determine which should have been selected for award. The determination of the relative merits of proposals is the responsibility of the contracting agency, since it must bear the burden of any difficulties incurred by reason of a defective evaluation. Accordingly, we have held that procuring officials enjoy a reasonable degree of discretion in the evaluation of proposals and that such determinations are entitled to great weight and must not be disturbed unless shown to be arbitrary or in violation of procurement statutes or regulations. System Innovation & Development Corp., B-185933, June 30, 1976, 76-1 CPD 426, and decisions cited therein.

Here, the Marine Corps has acknowledged that Tracor's relative standing in the technical evaluation has improved but because the ribbonless operation capability was only one of several advantages originally thought to favor the Motorola proposal, the Marine Corps concluded that Tracor's improved technical position was not sufficient to overcome Motorola's position in the "ease of operation and maintenance" category. We have examined the RFP's evaluation factors, the instructions to the evaluators, and the evaluators' score sheets and on that basis we cannot conclude that the Marine Corps acted arbitrarily.

C. No Valid Basis To Justify Award At Higher Cost

Our Office has upheld awards to concerns submitting technically superior proposals, although the awards were made at costs higher than those proposed in technically inferior proposals. See, e.g., 52 Comp. Gen. 358 (1972); Tracor Jitco, Inc., 54 Comp. Gen. 896 (1975), 75-1 CPD 253. The Marine Corps believes that the award to Motorola at a

higher cost is justified because the following advantages of the Motorola technical approach substantially outweigh the price difference:

"(1) Operational Advantages:

"(a) The Motorola teleprinter uses a coding disk to change from one code reception to another where the proposed Tracor teleprinter uses a printed circuit board (PCB). The simplicity of changing a disk provides ease of operation not provided by the PCB. Such ease of operation insures that the code can be changed quickly in tactical scenarios where the equipment will be utilized and the operator will be subjected to stress.

"(b) The teleprinters will be utilized in mobile shelters in a tactical environment. Due to relative size, the disk will be easier to store in quantity than the PCB making it easier to have available assets near the user.

"(2) Maintenance Advantages:

"(a) The Motorola teleprinter has fewer moving parts in the print head than the Tracor teleprinter resulting in less maintenance at the user level as well as at higher levels of maintenance.

"(b) A damaged Motorola disk can be re-established in the field whereas a damaged Tracor PCB would have to be evacuated to a maintenance facility or the manufacturer."

(d) Simplicity of Pallet Change

Tracor contends that the Marine Corps' conclusion that a disk can be changed more simply than a PCB is based on generalized information and not on concrete facts. Further, Tracor contends that it was placed at a competitive and unfair disadvantage, due to the fact that the evaluators asked for and received a Motorola disk from the Army during the evaluation.

As noted above, we have consistently held that procuring officials enjoy a reasonable range of discretion in the evaluation of proposals and in the determination of which offeror or proposal is to be accepted

for award. Field Management Services Corp., B-185339, May 28, 1976, 76-1 CPD 350, and the decisions cited therein. Here, it appears that the Marine Corps bases its conclusion on its judgment that an operator may attempt to insert a PCB upside down whereas such error is not possible with a disk; therefore, on the whole, the Motorola approach was believed to be more simple. We must conclude that the Marine Corps' evaluation is based on the reasoned judgment of its source-selection personnel in accordance with the established evaluation factors.

Furthermore, we do not believe that Tracor was prejudiced by the evaluators examining a Motorola disk. Clearly, there was no need for the evaluators to request a Tracor PCB because PCB's have been very common for many years.

(ii) Pallet Storage Characteristics and Field Reprogramming Capability

With regard to relative pallet storage characteristics and the Motorola disk's field reprogramming capability, Tracor contends that neither of these criteria was listed in the RFP as an evaluation factor and it is improper to use unstated evaluation criteria in determining acceptability or ranking of proposals.

The Marine Corps states that both of these considerations are within the purview of the subfactor, "ease of operation and maintenance."

As stated earlier, an RFP must advise offerors of all the evaluation factors and the relative importance of each. Further, in our decision, AEL Service Corp., supra, it was held that while offerors should be informed of the relative weights of main categories of evaluation factors, the relative weights of subcriteria, if "definitive" of main criteria, need not be disclosed. We have not held that elements of subcriteria need to be disclosed. In the circumstances, it is our view that the pallet storage characteristics and disk field reprogramming capability are within the purview of the subfactor, "ease of operation and maintenance." Accordingly, we must conclude that the evaluation factors listed in the RFP by the Marine Corps were reasonably sufficient to advise offerors of the technical basis for award.

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The Marine Corps indicates that neither of these features was scored by the evaluators but both features were considered by the Procurement Review Board. Tracor contends that the Board should not have been permitted to consider a technical feature which was not scored by the technical evaluators.

We have held that technical point ratings are useful as guides for intelligent decision-making in the procurement process, but whether a given point spread between two competing proposals indicates the significant superiority of one proposal over another depends upon the facts and circumstances of each procurement and is primarily a matter within the discretion of the procuring agency. Grey Advertising, Inc., B-184825, May 14, 1976, 55 Comp. Gen. \_\_\_\_\_, 76-1 CPD 325, and the decisions cited therein. We have also held that technical evaluation narratives may well be indicative of whether one proposal is technically superior to another and should be considered by source-selection officials. EPSCO, Incorporated, B-183816, November 21, 1975, 75-2 CPD 338. We have further held that selection officials are not bound by the recommendations made by evaluation groups even though such groups would have the technical expertise relevant to the technical evaluation of proposals. Bell Aerospace Co., 55 Comp. Gen. 244 (1975), 75-2 CPD 168; 52 Comp. Gen. 686 (1973). Accordingly, it was proper for the Procurement Review Board to consider technical features of proposals even though such features were not scored by the technical evaluators. Marine Management Systems, Inc., supra.

(iii) Printhead Design

The Marine Corps indicates that the Motorola printhead has fewer moving parts than the Tracor unit and in its judgment the Motorola design will result in less maintenance at the user level. Tracor contends that its telprinter has fewer total parts and that its design will result in easy maintenance at lower cost. Additionally, the Marine Corps concluded that the Tracor printhead, which receives printing impulses through a "flying" cable, was not as rugged as the Motorola approach. Tracor contends that the printhead design was a very minor item and no portion of the point score differential should be attributed to this feature.

It is clear that the Marine Corps made its source selection based in part on its view that the Motorola printhead design was technically superior to the Tracor design in the area of ease of maintenance. It is also clear that the Marine Corps was justified in using that criteria in its evaluation since all offerors were advised that ease of maintenance was an evaluation factor. Although Tracor does not agree with the Marine Corps' technical judgment on this point, we have reviewed the record and we cannot say that the Marine Corps acted arbitrarily or unreasonably in its evaluation of this point.

Accordingly, we believe that the award at higher cost was justified.

D. Motorola Proposal Does not Meet Security Requirement of RFP

Tracor states in its letter dated July 30, 1976, that the Motorola approach to code security--which leaves some of the classified code in the printer when the disk is removed--as described in the GAO conference on July 1, 1976, does not comply with the requirements of item 4, block 12 of amendment 0003, dated September 5, 1976, of the RFP. The Marine Corps states that the Motorola approach complies with the Statement of Work requirements of the RFP and, in its technical judgment, no information on classified codes can be obtained from the printer without an appropriate disk.

We believe that Tracor's contention is untimely under subsection 20.2(b)(2) of our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(2) (1976), since it appears that the basis for protest was known on July 1, 1976, and was not filed in our Office until August 4, 1976, more than 10 working days after the basis for protest was known.

IV. Initial Improper Evaluation

After Tracor's protest, the Marine Corps noticed that the initial award to Motorola was based on factors not mentioned as evaluation criteria in the RFP. The Marine Corps then reevaluated the proposals based on the evaluation criteria in the RFP and again concluded that the technical advantages of Motorola's proposal outweighed the price differential. The rationale for again selecting Motorola was outlined in the Marine Corps' report to our Office dated May 28, 1976.

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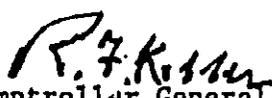
Tracor contends that the reconsideration does not validate the otherwise invalid procurement, and that: (1) the Marine Corps has offered no evidence regarding the reconsideration; (2) the reconsideration could not possibly have cured all the defects; and (3) the Marine Corps is asking the GAO to rely on the propriety of its reconsideration, based on verbal assurances, although no contemporaneous documents are presented to record and support the reconsideration.

With regard to Tracor's contentions (1) and (3) concerning the necessity for contemporaneous documentation to record and support an evaluation or reconsideration, our decision in Automated Systems Corp., B-184835, February 23, 1976, 76-1 CPD 124, relied on by the Marine Corps, held that the time of preparation of the report to justify acceptance of a higher-priced, higher-scored offer does not affect the substance of the justification. We also stated that the requirement is procedural in nature and does not affect the validity of an award if a proper basis for the award existed.

Tracor also argues in (2) that the reconsideration in May 1976 could not have cured all the errors because it was not until July 1976 that the Marine Corps first recognized the ribbonless operation capability of Tracor's proposal and Tracor first pointed out at that time that the technical scores were improperly computed. The Marine Corps indicates that a third reconsideration took place after it learned of the Tracor unit's ribbonless operation capability and that this resulted in a determination that award to Motorola was again justified. The rationale for this decision was expressed in the Marine Corps' letter dated July 9, 1976. Since, as discussed above, we conclude that the erroneous computation of technical evaluation scores and the failure to initially recognize the ribbonless operation feature did not result in material prejudice to Tracor, it is our view that the Marine Corps' reports of May 28, July 9, and August 16, 1976, provide adequate documentation to record and support award to Motorola.

While we have denied Tracor's protest, we are bringing to the attention of the Marine Corps the various deficiencies noted in its handling of this procurement for corrective action in future procurements of this nature.

Acting

  
Comptroller General  
of the United States