

DECISION



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

FILE: B-214246

DATE: September 25, 1984

MATTER OF: General Management Systems, Inc.

DIGEST:

1. Agency had a reasonable basis for excluding the protester's proposal from the competition where its best and final technical offer, although technically acceptable, had no reasonable chance for award based on the array of scores obtained by the offerors, and where its proposed price was so low that it could have distorted the final evaluation results if included in the scoring.
2. Protest against the evaluation of the protester's technical proposal is denied where the primary technical deficiencies found by the agency were reasonably related to the stated evaluation criteria and where the agency's conclusions regarding those deficiencies have not been proven arbitrary, despite obvious disagreement between the protester and the agency.

General Management Systems, Inc. (GMS) protests the Department of the Navy's rejection of its proposal under request for proposals (RFP) No. N68520-83-R-9051 for aircraft logistics management and weapons systems management (LM/WSM). We deny the protest.

The contracting officer eliminated GMS' proposal from the competition after receiving and evaluating best and final technical offers. He did so because he found that GMS had no reasonable chance for award due to its low technical score and because he considered GMS' proposed price to be unreasonably low. He decided that including GMS' price proposal in the final point scoring would be inappropriate because it could distort the evaluation results.

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GMS contends that its low price was not a proper basis for the contracting officer's action because its proposal was considered technically acceptable and contract award was made on a firm fixed-price basis. The protester also questions the evaluation of its technical proposal and contends that the agency employed evaluation criteria which were not set forth in the RFP.

Elimination of Proposal from Final Point Scoring

The Navy received five proposals in response to the RFP, all of which were initially included within the competitive range. After receipt and evaluation of revised proposals, the technical scores (out of a possible 440 points) and proposed prices of the offerors were as follows:

<u>Offeror</u>	<u>Technical</u>	<u>Price</u>
A	373	\$2,285,097
B	332	1,183,145
C	326	1,077,283
D	303	1,049,129
GMS	197	543,381

The RFP provided that the technical evaluation factors would be considered twice as important as price.

As previously indicated, the agency also point-scored price proposals to arrive at a total score for each offeror, but GMS' proposal was not included in this scoring due to its low technical score and low price, which was regarded as unrealistic. In this connection, we note that the RFP specifically provided that:

"Pricing will be evaluated on the basis of realism and demonstrated understanding of the work, i.e., prices which are extremely high or low in relation to the government's estimate may be determined unrealistic and indicative that the offeror has misunderstood the nature of the work to be performed."

As GMS points out, the fact that an offeror's price is considered unreasonably low does not provide a valid basis for rejecting a technically acceptable fixed-price proposal absent a finding of nonresponsibility. See Everhart Appraisal Service, Inc., B-213369, May 1, 1984, 84-1 CPD ¶ 485. This is

because a fixed-price contract is not subject to adjustment based on the contractor's cost experience during performance and thus places no obligation on the contracting agency to pay more than the price at which contract award is made. Id.

Here, however, the agency's elimination of GMS from the competition was not based on its low price alone, but on the combination of that low price and its low technical score. We consider this consistent with well established legal principles and find no basis to object to the agency's actions with respect to GMS' proposal.

First, a proposal which is rated technically acceptable may be eliminated from the competitive range if there is no reasonable chance for award. Leo Kanner Associates, B-213520, Mar. 13, 1984, 84-1 CPD ¶ 299. In addition, we have stated in several cases that where price or cost is to be given a point score in proposal evaluation, it is inappropriate to include in the scoring a proposal which has no reasonable chance for award and which is priced very low or very high, since that could distort the evaluation results. See, e.g., Ocean Data Equipment Division of Data Instruments, Inc., B-209776, Sept. 29, 1983, 83-2 CPD ¶ 387; Umpqua Research Company, B-199014, Apr. 3, 1981, 81-1 CPD ¶ 254; Francis & Jackson, Associates, 57 Comp. Gen. 244 (1978), 78-1 CPD ¶ 79.

In this case, GMS received the lowest overall technical score, which was more than 100 points below that of the proposal receiving the second lowest technical score. Also, its price proposal was nearly 50 percent lower than the government estimate of \$1,080,000 and 48 percent lower than that of the next lowest offeror, leading the Navy to find that the very low price proposed by GMS cast doubt on the validity of its technical proposal. Consequently, the contracting officer in effect determined that on a relative basis, GMS' best and final offer had no reasonable chance for award and was no longer within the competitive range. Moreover, we find nothing improper in the contracting officer's decision to reject GMS' proposal before the final price scoring since the inclusion of GMS' questionable and very low priced proposal could have distorted the evaluation

results. See First Ann Arbor Corporation, B-194519, Mar. 4, 1980, 80-1 CPD ¶ 170; Francis & Jackson, Associates, supra, 57 Comp. Gen. at 250, 78-1 CPD ¶ 79 at 8.

Concerning the propriety of the agency's decision to evaluate price proposals in terms of price realism, we note that the RFP specifically advised offerors of the agency's intent in that regard. Therefore, any objections GMS had to this procedure should have been raised prior to the closing date set for receipt of proposals. See 4 C.F.R. § 21.2(b)(1) (1984). We do point out, however, that although cost realism generally bears little relationship to a fixed-priced contract (where cost quantum is the prime concern) an agency may evaluate fixed price proposals in terms of price realism in order to measure offeror understanding of the government's requirements. See Los Angeles Community College District, B-207096.2, Aug. 8, 1983, 83-2 CPD ¶ 175; H. G. Peters & Company, Inc., B-189552, Dec. 8, 1977, 77-2 CPD ¶ 443.

GMS also asserts that the oral discussions which the Navy held with it were inadequate because it was not specifically advised that its price proposal was considered unrealistic. GMS says that it was only advised that its price was significantly lower than the government estimate. When it inquired whether its price realism was being questioned, the government representative simply stated "I am just advising you that your price is substantially below the government estimate."

The content and extent of the discussions necessary to satisfy the requirement for meaningful discussions is a matter of judgment primarily for determination by procuring officials and is not subject to question by our Office unless shown to be clearly without a reasonable basis. See Health Management Systems, B-200775, Apr. 3, 1981, 81-1 CPD ¶ 255. The requirement for meaningful discussions dictates only that the agency, in conducting discussions, proceed in a manner that alerts the offeror to the perceived weaknesses in its proposal. See CRC Systems, Inc., B-207847, May 2, 1983, 83-1 CPD ¶ 462. Thus, we have held that agency statements made during discussions which lead offerors into particular areas of their proposals are sufficient to put them on notice that their proposals may be deficient in those areas. Id.

We find that the Navy satisfied the requirement for meaningful discussions in this case. In our view, it was sufficient to advise GMS that its price proposal was significantly below the government estimate. While GMS was not specifically advised that its price realism was in question, we do not see how GMS reasonably could have viewed the government's statement regarding its price as other than a concern about the adequacy of that price. We therefore find no merit to GMS' position in this regard.

Evaluation of Technical Proposal

GMS argues that its technical proposal was not properly evaluated and that the Navy used evaluation criteria which were not set forth in the RFP. The Navy denies these allegations.

The record shows that GMS' technical proposal was primarily found deficient in the areas of experience and personnel qualifications, both of which were identified in the RFP as factors for proposal evaluation. GMS objects, however, to the Navy's conclusion that its proposal was deficient because "The offeror [is] depot management oriented with no direct or indirect experience in LM/WSM program support . . ." and because GMS' proposed personnel lack qualifications in the area of LM/WSM. GMS argues that there were no criteria in the RFP for evaluating a company's "orientation" and that the RFP did not specify any particular required personnel qualifications, so there were no criteria for evaluating them.

It is well established that although agencies are required to identify the major evaluation factors applicable to a procurement, they need not explicitly identify the various aspects of each which might be taken into account, provided that such aspects are reasonably related to the stated criteria. Information Management Inc., B-212358, Jan. 17, 1984, 84-1 CPD ¶ 76. We consider the Navy's concerns about GMS' "orientation" and the specific qualifications of its proposed personnel to be reasonably related to the evaluation criteria stated in the RFP. The concern about GMS' orientation obviously relates to the firm's experience.

Furthermore, the qualifications of GMS' proposed personnel in the specific area of expertise covered by the RFP are obviously reasonably related to the stated criterion of "personnel qualifications." We therefore deny this aspect of GMS' protest.

The protester also asserts that the Navy erred in concluding that GMS and its proposed personnel lack experience and qualifications in LM/WSM program support. GMS acknowledges that the Navy was correct when it found that GMS' expertise is in the field of aircraft depot management, but argues that the Navy was wrong when it found that expertise unrelated to LM/WSM program support. In addition, GMS argues that its proposed personnel do have LM/WSM experience and qualifications.

The Navy contends that there are significant differences between the areas of depot management and LM/WSM. According to the agency, the maintenance of aircraft is accomplished by three level-of-maintenance concepts: organizational, intermediate and depot. The Navy states that the logistics manager's role is to bring together into a comprehensive plan all of the material and manpower elements necessary for supporting the Navy's weapons systems at any time or place, whatever the required level of maintenance may be. The depot manager, in contrast, is described as concerned only with the facilities and processes needed to perform maintenance at the depot level.

The agency also disputes GMS' assertion that its proposed personnel are well qualified in the area of LM/WSM program support. The Navy states that while the proposed personnel held executive level positions in various Naval air activities, which included elements concerned with LM/WSM support, no direct connection between the individual and that specific element of the activity was shown. The agency says it could not attribute direct experience to a senior executive simply because LM/WSM was conducted in an element of an organization that executive managed.

It is not the function of our Office to evaluate technical proposals or resolve disputes over the scoring of technical proposals. See Leo Kanner Associates, B-213520, supra, 84-1 CPD ¶ 299 at 9. The determination of the relative merits of a proposal, particularly with respect to technical considerations, is primarily a matter of administrative discretion, and the exercise of that discretion will not be disturbed unless it is shown to be arbitrary or in violation of the procurement laws or regulations. Zuni Cultural Resource Enterprise, B-208824, Jan. 17, 1983, 83-1 CPD ¶ 45.

Here, both parties have defended their positions in detail and it is apparent that they have a fundamental disagreement over the relevance of GMS' experience and the qualifications of its proposed personnel in relation to the RFP requirements. The fact, however, that the protester disagrees with the agency's evaluation does not render the evaluation unreasonable. Ocean Data Equipment Division of Data Instruments, Inc., B-209776, supra, 83-2 CPD ¶ 387 at 6.

We believe the evaluators could reasonably conclude that GMS' depot management experience was not sufficient here since LM/WSM encompasses other levels of maintenance in addition to the depot level. Accordingly, while GMS may have experience in LM/WSM at the depot level, we are not persuaded that the agency was required to consider that experience adequate to fulfill its needs here.

Concerning the qualifications of GMS' proposed personnel, we note that the dispute primarily focuses on four of the proposed employees. The record shows that the most recent experience of each is in the area of depot management. With regard to past experience, in one case the agency recognized the LM/WSM experience cited by GMS but considered it too brief and too old to be meaningful. In addition, while the other personnel held positions such as Executive Officer to the Assistant Commander for Logistics/Fleet Support and Commanding Officer, Naval Air Systems Command, we consider reasonable the agency's conclusion that these executive level positions do not reflect significant direct experience with LM/WSM. Under the circumstances, we find no adequate basis to conclude that the technical evaluators were arbitrary in their assessment of GMS' proposal.

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The protest is denied.

for *Milton J. Douglas*
Comptroller General
of the United States