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**DECISION**



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

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B-218295

**FILE:**

**DATE:** July 12, 1985

Capital Systems, Inc.

**MATTER OF:**

**DIGEST:**

1. Protest against award of a contract, based on allegation that evaluation placed disproportionate emphasis on subjective evaluation factors and not enough on cost, is untimely because relative weight of criteria was stated in solicitation and protest was filed after closing date for receipt of proposals.
2. Protest against subjective evaluation of proposals is without merit where solicitation sets forth evaluation factors which can only be evaluated subjectively.
3. Assertion that evaluation improperly was based on minimizing risk is without merit because risk may properly be considered in determining which proposal is most advantageous to the government.

Capital Systems, Inc. (CSI), filed a protest against the award of a contract by the Air Force Logistics Management Systems Center to the International Business Machines Corporation (IBM) under request for proposals (RFP) No. F33606-85-R-0006. We dismiss the protest in part and deny it in part.

The Air Force issued this RFP to acquire a computer system and associated software, maintenance and support for the Security Assistance Management Information System (SAMIS), a large data base covering foreign military sales activities. The system included a large computer (with two projected upgrades), a variety of terminals and printers, disk drives--known as "direct access storage devices" or DASD--used to store data and programs not actively in use in the computer, and cache buffering systems, which are a form of intermediate storage used between the computer and the DASD to increase the speed with which the computer can

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access files or programs stored externally. The capacity requirements for both the initial system and the upgrades were identified in terms of specific models of IBM equipment and compatible current product lines (including some computers that were announced but not yet available) of other vendors which the RFP identified as "satisfactory." The RFP also identified an "optimum configuration" for the DASD and indicated a preference for the computer and DASD to come from the same manufacturer. Offerors were advised that reliability, assessed on the basis of industry literature and reports, would be considered.

The evaluation was to be based on the Air Force's "lowest evaluated price" method, with the criteria listed in descending order of importance as: (1) Vendor Support, (2) Price, and (3) Technical. Price and technical were of equal value and both were significant. The RFP detailed the various subcriteria for the technical evaluation under each of the above criteria. Offerors were advised that the evaluation was to be "in depth." The contract was to be awarded to the vendor receiving the highest weighted evaluation score based on these three factors.

CSI offered equipment produced by Amdahl Corporation, a manufacturer of IBM-compatible computers. The specific model of computer offered by CSI was one of those listed as "satisfactory." Best and final offers were received on January 16, 1985. Because IBM's higher technically-rated higher-price proposal received the highest score under the evaluation formula, the Air Force awarded the contract to IBM on February 21, 1985, and advised CSI of the award by telephone on February 22. The Air Force debriefed CSI on March 7, the day prior to CSI's protest to our Office on March 8. By letter dated March 14, received in our Office on March 18 and by the Air Force on March 21, CSI supplemented its protest.

In its protest, CSI originally raised numerous specific objections to the requirements of the RFP and the Air Force's conduct of the evaluation which CSI contended favored IBM. For example, CSI contended that:

1. The Air Force ignored price/performance benefits and failed to give CSI credit for offering computers more powerful than the minimum specification;

2. The solicitation included a requirement for terminals manufactured only by IBM--for which CSI was required to bid full price because the Air Force declined to authorize CSI to purchase the terminals from the General Services Administration multiple award schedule contract;

3. The "optimum [DASD] configuration" cited in the solicitation was available only from IBM;

4. The RFP contained other restrictive requirements, such as the requirement that the DASD and computer be from the same manufacturer.

CSI also stated that it was "penalized" because of poor reliability statistics, and questioned the source of the statistics and why this evaluation method was not disclosed in the RFP, and raised other challenges to the RFP and the evaluation.

However, CSI's final comments, filed after its receipt of the Air Force report and a conference on the protest, state that CSI "does not dispute that the U.S. Air Force evaluated each offeror's proposal correctly under the [Air Force Logistics Command] 'Lowest Evaluated Price' technique" and does "not dispute the Air Force's contention that IBM Corporation's score was [highest] under this technique." Rather, CSI now contests the validity of use of an evaluation scheme that involved subjective criteria such as technical factors and vendor support capabilities which allegedly were weighted "three times the cost component."

To the extent CSI is challenging the evaluation scheme that was set forth in the RFP, its contentions are untimely under our Bid Protest Regulations, which require that protests of alleged improprieties apparent on the face of a solicitation be filed prior to the closing date for receipt of proposals. / 4 C.F.R. § 21.2(a)(1) (1985). The evaluation method--and the relative importance of cost in the evaluation (cost could not possibly have been more than one-third and was, therefore, clearly overshadowed by the subjective criteria to which CSI objects)--as well as the various allegedly IBM-preferential items in the RFP, were apparent on the face of the solicitation.

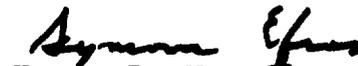
To the extent that CSI protests the way in which the criteria were applied, we find the protest to be without

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merit. In essence, CSI's complaint is that subjective judgment was used by the evaluators, with the result that IBM received a higher score than did CSI. The RFP, however, provided clear advice that a detailed technical evaluation would be performed. We have recognized that such evaluations inherently involve subjective judgments which may be quantified objectively in evaluation formulas similar to the one used here, see, e.g., Culp/Wesner/Culp, B-212318, Dec. 23, 1983, 84-1 CPD ¶ 17; High Plains Consultants, B-215383, Oct. 18, 1984, 84-2 CPD ¶ 418, and that one vendor's proposal may be found to be technically superior to another proposal on the basis of such subjective judgments. In short, a complaint that the evaluation of proposals was made subjectively, when the RFP sets forth evaluation factors that can only be applied subjectively, as is the case here, is simply without merit.

Finally, CSI complains that the evaluation "was based on [the] concept of 'least risk,' not the most advantageous solution to the . . . requirement." Risk, however, properly may be taken into account in determining what proposal is most advantageous to the government. See, e.g., Ionics Inc., B-211180, March 13, 1984, 84-1 CPD ¶ 290; Laser Photonics, Inc., B-214356, Oct. 29, 1984, 84-2 CPD ¶ 470.

The protest is dismissed in part and denied in part.

*for*   
 Harry R. Van Cleve  
 General Counsel