

**DECISION**



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

**FILE:** B-219967.2 **DATE:** December 27, 1985  
**MATTER OF:** Physicon, Inc.

**DIGEST:**

1. While competitive range discussions must be meaningful, the agency need not discuss weaknesses inherent in an offeror's judgment or approach which, in order to correct, would require substantial proposal revision and possibly lead to technical leveling. The content and extent of meaningful discussions in a given procurement are matters primarily for determination by the agency, and GAO will not question such a determination unless it is clearly without a reasonable basis.
2. Agency's evaluation of cost proposals by scoring and comparing estimated total contract costs, including estimated material and travel costs that were provided to all offerors for purposes of preparing cost proposals, is not unreasonable where the method used is consistent with the evaluation scheme in the solicitation and provides a sound basis for weighing the relative merits of the proposals.
3. Allegation that contract negotiator's subsequent statements show that he gave greater weight to experience and responsibility than the solicitation contemplated is denied where that individual did not evaluate technical proposals and the agency made no adverse responsibility determination.

Physicon, Inc. protests the rejection of its proposal under solicitation No. DAA401-85-R-A980, issued by the U.S. Army Missile Command, Redstone Arsenal, Alabama, seeking scientific and technical support services for testing electromagnetic and nuclear effects on weapons systems. Physicon contends that the Army failed to conduct meaningful negotiations, diluted the importance of cost, and gave undue weight to offeror experience and responsibility during the evaluation process.

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**We deny the protest.**

The Army issued the solicitation on April 29, 1985 as a small business set-aside. The solicitation contemplated a 3-year time and materials contract to provide an indefinite quantity of scientific and technical support to the Army's Electromagnetic and Nuclear Effects Group. This support includes operating and maintaining test facilities, planning tests, collecting data, and running tests on weapons systems for nuclear effects, electromagnetic pulse, electrostatic discharge, and other analyses.

The solicitation provided that proposals would be evaluated on the basis of three criteria, namely technical, total contract cost, and management. Among these, cost was the most important, approximately 1-1/5 times more important than technical, and management was the least important. In addition, offerors were required to show that personnel education and experience satisfied minimum requirements of the solicitation.

As to the technical factor, each offeror was required to demonstrate its understanding and the adequacy of its proposal by outlining a proposed method for handling a comprehensive hypothetical task. The management factor was also evaluated on the basis of this hypothetical task, although it was considered solely as a question of acceptability and was not point-scored.

As to cost, the solicitation stated that total proposed cost would be determined by multiplying the offeror's proposed labor rate by the stated estimated labor hours for each labor category, and adding to that (1) the offeror's material handling cost and indirect costs associated with \$5,100,000 in material costs, and (2) indirect costs associated with \$750,000 in travel costs.

Two firms, Physicon and Electro Magnetic Applications, Inc. (EMA), submitted proposals by the designated June 7 closing date. On July 11, following completion of technical and cost evaluations, the Army requested best and final offers without entering into discussions with either firm. Final offers were received shortly thereafter.

On August 20, the Army advised Physicon of a proposed award to EMA, and Physicon timely protested that decision. On October 4, the Army authorized award to EMA for reasons of urgency and provided notice of that action to this Office. The Army subsequently debriefed Physicon, and as a result, Physicon supplemented the issues previously raised in its protest.

Physicon contends that because the Army accepted its technical proposal as submitted, without conducting technical discussions of any sort, the Army must have felt that Physicon's technical proposal did not contain any major weaknesses or deficiencies. Alternatively, Physicon argues, if the Army believed that Physicon's proposal was deficient, those deficiencies should have been pointed out and Physicon given an opportunity to improve its proposal. Hence, Physicon concludes, either its technical proposal was so strong that discussions were unnecessary or the Army failed to conduct meaningful negotiations.

In light of the Army's debriefing, in which certain deficiencies in Physicon's proposal were identified, Physicon argues that at least some of the perceived deficiencies in its technical proposal should have been pointed out during discussions because they were susceptible to improvement had they brought to the firm's attention. As examples, Physicon points to the Army's criticism of Physicon's failure to show how it would instrument a particular test (electromagnetic pulse) or to show its methods for determining criteria for another test (electrostatic discharge), matters which, Physicon argues, are readily correctable. Because Physicon was not apprised of these deficiencies and given an opportunity to revise its proposal, it believes the agency improperly failed to conduct meaningful discussions with it.

Agencies generally must conduct written or oral discussions with all responsible offerors within the competitive range. 10 U.S.C.A. § 2305(b)(4)(B) (West Supp. 1985). This requirement can be satisfied only when discussions are meaningful, TRS Design & Consulting Services, B-214001, May 29, 1984, 84-1 CPD ¶ 578, which means that negotiators should be as specific as practical considerations will permit. Tracor Marine Inc., B-207285, June 6, 1983, 83-1 CPD ¶ 604. However, where the agency considers a weakness in a proposal to be inherent in the offeror's management judgment, it is not always necessary to include that matter in discussions. See Federal Acquisition Regulation, 48 C.F.R. § 15.610(d)(1) (1984). In this regard, negotiators should not point out weaknesses resulting from an offeror's lack of diligence, competence, or inventiveness in preparing its proposal if such discussions will lead to technical leveling. Id.

We think the record supports the conclusion that the weaknesses in Physicon's proposal were such that a substantial revision of Physicon's approach would have been necessary, thus raising the possibility of technical leveling

had the agency's concerns with Physicon's proposal been pointed out. In this respect, the evaluators' individual assessments of the Physicon proposal are remarkably consistent. They all conclude that, although Physicon is strong in the research and analysis portion of the work, the firm and its employees lack experience in conducting test in key areas and this lack of experience is elected in insufficient understanding of how to design and conduct tests.

For example, one evaluator says Physicon has "analyzed the problems to death, needs more testing with less analysis," "they have heavily weighed their proposal towards analysis with not enough emphasis on tests," and "very little experience in testing." Other evaluators describe Physicon as "heavy in theory, weak in actual testing experience" "lots of experience in EMP analysis, little in direct test," "too heavily analysis oriented," and "they seem to be more 'research' oriented than 'test' oriented." Moreover, this deficiency in Physicon's testing experience and understanding was the primary reason for the more than 8 point difference out of a possible 45 points between the two offeror's technical scores. EMA, on the other hand, was uniformly evaluated as having both a very good understanding of all aspects of the requirement and extensive testing experience.

In this context, the Army's specific concerns with various aspects of Physicon's proposed testing approach are symptomatic of the Army's underlying concern, i.e., that Physicon does not possess adequate testing experience and understanding of how to design and conduct tests in critical areas of activity. This would not have been cured by directing the firm's attention to one or more of the specific weaknesses in its testing approach. One evaluator noted that he believed that Physicon's weakness in the testing field could be overcome during contract performance with technical guidance by the agency, but that this would entail a commitment of personnel and equipment use by the Army. Thus, for there to have been any difference in the outcome, Physicon would have had to be told to incorporate significant new testing capability into its proposal; this, we think, would have involved a major revision to its proposal and could appear to be technical leveling. We therefore cannot agree that the Army failed its obligation to conduct meaningful negotiations.

Physicon also argues that the Army's method for evaluating cost improperly reduced the significance of cost, primarily because the Army included the government's fixed estimate for travel and material costs in each

offeror's total proposed cost. Physicon states that the only reasonable interpretation of the RFP is that the offeror's proposed costs would be compared excluding the agency's estimated material and travel costs. The Army converted proposed costs to point scores by assigning the maximum number of points to the lowest total cost (Physicon's) and giving the second lowest (EMA's) a score based upon the percentage difference between the two. Physicon points out that the difference in the two firms' proposed costs becomes less significant when more than \$5 million in estimated material and travel costs are added to each--the absolute difference remains the same, but their relative difference will be less.

The RFP does not require exclusion of estimated material and travel costs in scoring proposals. The cost factor is stated to be "Total Contract Cost," which clearly implies that all costs to be paid under the contract will be included. In describing the evaluation of total proposed cost, the RFP states that offerors are to compute "total proposed costs" by multiplying loaded hourly labor rates times estimated hours, and adding indirect material handling costs and indirect material and travel costs. The solicitation does not state that this "total proposed cost" rather than the "total contract cost" will be scored.

Since the Army will actually pay material and travel costs under the contract, inclusion of those amounts in comparing estimated costs provides a sound basis for weighing the relative merits of the proposals. Thus, we cannot say that it is unreasonable for the agency to compare estimated total contract costs, and we find nothing in the RFP to require otherwise. Moreover, even if the Army had excluded estimated travel and material costs from the cost evaluation, it is not likely that it would have made a difference in the outcome in light of the perceived difference in technical proposals since Physicon's score would have been increased by less than one point.

Physicon asks us to review the reasonableness of the Army's cost evaluation method. The firm argues that cost evaluation methods based upon relative cost differences, such as the one used by the Army, dilute the significance of the cost factor and are inconsistent with its importance in the evaluation scheme. The protester states, for example, that it is unreasonable to score two proposals closely when they are \$500,000 apart, even if they are relatively close in amount. In other words, a \$500,000 difference should generate a large point difference whether the estimated costs are \$15 and \$15.5 million, or \$5 million and \$5.5 million.

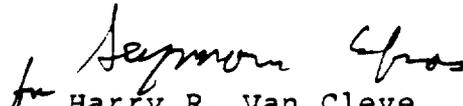
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Agencies may use a variety of evaluation methods, including normalizing methods, in evaluating cost proposals, so long as they provide a reasonable basis for source selection. Francis & Jackson, Assocs., 57 Comp. Gen. 244 (1978), 78-1 CPD ¶ 79. There is nothing inherently unreasonable about scoring the cost factor based upon relative difference in cost proposals, so long as the use of such an approach in a given case will not produce a distorted or irrational result. See, e.g., First Ann Arbor Corp., B-194519, Mar. 4, 1980, 80-1 CPD ¶ 170; Design Concepts, Inc., B-186125, Oct. 27, 1976, 76-1 CPD ¶ 365. We do not find that the scores given the cost proposals here are inconsistent with the relative merits of these proposals or to the evaluation scheme set forth in the solicitation. Consequently, we do not believe that the Army's cost evaluation method was unreasonable.

Physicon further contends that the Army did not adhere to the relative importance scheme stipulated in the solicitation and, instead, gave undue weight to prior experience and responsibility. This assertion is based on an alleged conversation with the Army's contract specialist, who is reported to have said that Physicon "had not held any government contracts and that was my concern."

The simple fact is that the contract specialist did not evaluate Physicon's technical proposal for experience or otherwise, nor was Physicon found to be nonresponsible. Hence, whatever may have been the contract specialist's concerns, they were not translated into action detrimental to Physicon.

The protest is denied.

*for*   
Harry R. Van Cleve  
General Counsel