

**DECISION**

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

**FILE:**

B-220385

**DATE:** January 29, 1986**MATTER OF:**

BDM Management Services Co.

**DIGEST:**

1. Protest that a member of the evaluation team was not present when second best and final offers were reviewed has no merit since there is no requirement that all members evaluate revised proposals and no bias has been demonstrated.
2. Protest against evaluation of protester's technical proposal is denied where review shows that the evaluation was reasonable and followed the evaluation criteria.
3. Protest that protester should have received award because its proposal was technically acceptable and low in cost is denied where the procurement was negotiated, the solicitation provided that technical factors were more important than cost, and the selecting official reasonably determined that the awardee's superior technical proposal was worth the higher cost.

BDM Management Services Company protests the award of a contract to AMEX Systems Incorporated under request for proposals (RFP) No. DAAH01-85-R-A836 issued by the United States Army Missile Command to procure system operation and maintenance support for its National Training Center Instrumentation System (NTC-IS).

We deny the protest.

The RFP was issued on April 26, 1985, and required offerors to respond by June 14 in accordance with technical, management and cost criteria. The Army received four proposals by the closing date and, after evaluation, placed them all in the competitive range. Discussions then were conducted, and all offerors were requested to submit best and final offers by September 3. After reviewing the best and final offers, however, the evaluation board determined

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that it needed additional information to evaluate the offerors' costs. Discussions therefore were reopened, and offerors were requested to respond to specific questions by September 17 in further best and final offers.

The evaluation board then determined that AMEX's proposal was superior, and recommended award to that firm; AMEX had received the highest technical and management score and the highest combined technical, management and cost score. The source selection official reviewed the evaluation and agreed that the technical superiority of AMEX's proposal was significant enough to outweigh the cost difference between the AMEX and BDM offers, and therefore to justify an award to AMEX. The contract was awarded to AMEX on October 1. BDM filed its protest with this Office on October 23, following a proposal debriefing.

BDM first protests that the proposal evaluation was unfair because one of the persons who evaluated BDM's initial proposal and first best and final offer was not present when the firm's second best and final offer was evaluated. BDM believes that if this member had been present, its technical proposal would have been rated higher. As evidenced by a source selection board memo, however, discussions were reopened and second best and final offers were requested to evaluate the cost proposals, not to evaluate the technical proposals, and BDM responded in that context. Inclusion of the member in question in the Army's review of BDM's second best and final offer thus would not have changed the results of the technical evaluation. In any event, except where there is a question of bias, we have held that all members of a technical evaluation team need not rescore offerors' revised proposals. Vibra-Tech Engineers Inc., B-209541.2, May 23, 1983, 83-1 C.P.D. ¶ 550. Accordingly, this protest basis is denied.

BDM also protests that the Army's decision to award the contract to AMEX at a cost 22.7 percent higher than BDM's cost was not justified. BDM questions whether its technical proposal could have been evaluated so much lower than AMEX's that the 22.7 percent cost difference would not outweigh any technical differences in the proposals.

To the extent BDM is protesting that the evaluation of its technical proposal was improper, it is not the function of our Office to evaluate the proposals and make our own determinations. Proposal evaluation, particularly

concerning technical considerations, is primarily a matter of judgment for the contracting officer. Our review is limited to considering whether the evaluation was fair and reasonable and in accordance with the stated criteria. Kelsey-Seybold Clinic, P.A., B-217246, July 26, 1985, 85-2 C.P.D. ¶ 90.

Here, the evaluation criteria, listed in section M of the RFP, provided that proposals would be evaluated according to the adequacy with which they responded to each listed area of consideration and satisfied the statement of work. Three major areas for evaluation were listed--technical, management, and cost--which were to be weighted 40 percent, 30 percent, and 30 percent, respectively. Under the technical and management categories, evaluation subfactors were listed in descending order of importance. The RFP further provided that the award would be made to the offeror whose approach was most advantageous to the government as determined according to the criteria.

We have reviewed the evaluation criteria and the Army's evaluation of BDM's proposal. The Army found that although BDM's proposal was technically acceptable, the offer was weak in a number of areas. For example, the Army found that in logistics, the most important technical subfactor, BDM incorrectly estimated the lines of code, did not adequately address its assessment of the software to be supported, and did not demonstrate that BDM adequately understood a cable consumption problem. The agency also found that BDM's proposal did not demonstrate that the firm fully understood the requirement for software maintenance. Notably, while all these deficiencies were pointed out to BDM during its debriefing, BDM has not questioned them in the course of this protest. Given these factors, we have no basis on which to find that the evaluation of BDM's proposal was unreasonable. Airtronix, Inc., B-217087, Mar. 25, 1985, 85-1 C.P.D. ¶ 345.

As to awarding to AMEX even though BDM's proposal was technically acceptable and lower in cost, in negotiated procurements where discussions are conducted there is no requirement that the award be based on cost, but only that it be consistent with the evaluation scheme in the solicitation. An agency therefore is free to award to a higher priced, technically superior offeror where technical factors are more important than cost if the lower prices are offset by the advantages of the technically superior proposals.

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Martin Marietta Data Systems, et al., B-216310, et al.,  
Aug. 26, 1985, 85-2 C.P.D. ¶ 228. Thus, for example, under  
an evaluation scheme similiar to that used by the Army, we  
have approved a contract award to the offeror that submitted  
a technically superior offer where that offeror's cost  
proposal was 20 percent higher than that of the other  
offerors. Prison Health Services, Inc., B-215613.2,  
Dec. 10, 1984, 84-2 C.P.D. ¶ 643.

The present RFP, as noted, provided that technical factors were worth 40 percent and cost and management factors each were worth 30 percent. A review of the evaluations shows that AMEX received substantially higher technical and management scores than BDM received. As discussed above, the Army found that BDM's proposal was technically acceptable, but contained a number of deficiencies, while AMEX's proposal was technically superior. The Army found that AMEX's proposal showed in depth knowledge of the NTC-IS, clearly reflected that AMEX knew the system requirements and operational needs of the NTC-IS and, overall, presented a negligible risk. The selecting official specifically determined that the superiority of AMEX's technical proposal warranted the higher price. Since that decision clearly was consistent with the RFP's evaluation scheme, and since it is reasonably supported in the record, we have no legal basis on which to object to the award to AMEX. See Fairchild Weston Systems, Inc., B-218470, July 11, 1985, 85-2 C.P.D. ¶ 39.

The protest is denied.

*for* *Seymour Efron*  
Harry R. Van Cleve  
General Counsel