

SP-117-PLI-1



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of:      Ball Technical Products Group  
File:            B-224394  
Date:            October 17, 1986

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### DIGEST

Agency has not justified its selection for a fixed price contract of an offeror which proposed a 53 percent higher price than another acceptable proposal. A low acceptable offeror cannot be rejected or downgraded in the price evaluation for its low price.

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### DECISION

Ball Technical Products Group (Ball) protests the award of a contract to LinCom Corp. (LinCom), by the Defense Communications Agency (DCA) pursuant to request for proposals No. DCA100-86-R-0041. The fixed-price contract was for technical analysis and evaluation of clock error data collected by the Naval Observatory for DCA.

We sustain the protest.

Seven firm fixed-price proposals were submitted in response to the RFP. The RFP stated that "cost" would be considered, "although of lesser importance than the technical assessment." The technical evaluation was scored on a 30-point scale. The technical scores and proposed prices of the seven offers are as follows:

Signatron	24.86	\$287,344
LinCom	24.76	165,981
M/A COM	23.61	174,290
University of Washington	22.84	164,644
Locus, Inc.	22.67	171,253
Ball Technical Products Group	22.33	108,615
Penn State	16.85	190,041

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The technical evaluation committee and the contracting officer, who adopted the technical evaluators' findings, characterized Signatron's and LinCom's proposals as excellent; M/A COM's, University of Washington's, Locus' and Ball's proposals as acceptable; and Penn State's proposal as marginally acceptable. Award was made to LinCom as the lower priced of the two proposals rated excellent.

Ball argues that DCA did not give sufficient weight to price in making the award selection since DCA only considered the prices of the "excellent" proposals, even though Ball submitted a much lower priced and admittedly acceptable proposal. We agree.

DCA has not justified on the record the award of a contract to an offeror proposing a 53 percent higher fixed price than Ball's. DCA rated Ball's proposal as technically acceptable. We recognize that Ball proposed approximately one third the level of effort proposed by the other offerors. Although DCA states that this raised serious question as to the depth of Ball's understanding as to what is required to be accomplished in this study, it did not cause DCA to characterize Ball's proposal as unacceptable.

DCA questions the "reasonableness" of Ball's low price and speculates that if Ball had proposed a reasonable amount of direct labor hours, then its price would no longer be low. We have held that 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 Everhardt Appraisal Service, Inc., B-213369, May 1, 1984, 84-1 C.P.D. ¶ 485. Moreover, a low fixed price offeror cannot be rated lower or downgraded in the price evaluation for source selection by virtue of its low price. Litton Systems, Inc., et al., 63 Comp. Gen. 585 (1984), 84-2 C.P.D. ¶ 317. In this regard, firm fixed-price contracts are not subject to adjustment based upon the contractors' cost experience during performance and place no obligation on the agency to pay more than the prices at which contract awards are made. Everhardt Appraisal Service, Inc., B-213369, supra.

The protest is sustained.

We recommend that DCA reevaluate both LinCom's and Ball's proposals and perform an appropriate cost/technical tradeoff analysis. If the award to LinCom cannot be justified under the RFP evaluation criteria, its contract should be

terminated and award made to Ball. Alternatively, DCA may choose to conduct discussions with all firms in the competitive range and reevaluate the resulting best and final offers to ascertain the appropriate awardee.

*for* *Harry R. Van Cleave*  
Comptroller General  
of the United States