



Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

**Matter of:** Computervision Corporation

**File:** B-257141

**Date:** August 12, 1994

Alex D. Tomaszczuk, Esq., and Devon E. Hewitt, Esq., Shaw, Pittman, Potts & Trubridge, for the protester.  
Ronald E. Cone, Department of Energy, for the agency.  
Richard P. Burkard, Esq., and John Van Schaik, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

## DIGEST

Protest challenging agency's negative responsibility determination is denied where protester fails to show that agency acted in bad faith or that determination was unreasonable in light of firm's overall financial posture.

## DECISION

Computervision Corporation protests the negative determination of responsibility made by the University of California, in its capacity as a management and operations (M&O) contractor at the Department of Energy (DOE) Lawrence Livermore National Laboratory in connection with request for proposals (RFP) No. H179500. Computervision argues principally that the University based its determination on an erroneous belief that the firm had filed for bankruptcy and contends that the University's mistake tainted the other bases for the negative determination.

<sup>1</sup>The University is subject to our bid protest jurisdiction as an M&O contractor that effectively awards subcontracts "by or for" the government. DOE's regulations provide for our Office to consider protests involving acquisitions by M&O contractors such as the University. Department of Energy Acquisition Regulation, 48 C.F.R. § 970.7107 (1993); AT&T, B-250516.3, Mar. 30, 1993, 93-1 CPD ¶ 276. We review subcontract awards by prime M&O contractors under a "federal norm" standard, i.e., to determine whether the procurements and subsequent awards are consistent with the policy objectives set forth in statutes and regulations which apply directly to federal agency procurements. Elma Eng'g, 70 Comp. Gen. 81 (1990), 90-2 CPD ¶ 390.

We deny the protest.

The RFP sought proposals to provide "unlimited on-site remedial maintenance for all Sun Microsystems products," and defined remedial maintenance as "service to correct equipment malfunction . . . as required on an unscheduled basis, and installation of engineering change orders." The RFP provided that the contract would be awarded to the "responsive and qualified [offeror] who submits a proposal that will result in the lowest overall cost. . . ." It stated further that "[a]ll proposals will be evaluated to determine if the [offeror] is qualified . . . before an evaluation of . . . prices is performed." The RFP included a series of qualification requirements including financial resources. Under that requirement, each offeror was to submit its "most recent financial statement," and the RFP stated that the offeror "must be solvent and in sound financial condition."

The University received nine offers in response to the RFP. Included with Computervision's offer was its latest Form 10-K (for the fiscal year ending December 31, 1992), as filed with the U.S. Securities and Exchange Commission. The 10-K contained Computervision's recent financial statements and other detailed information about the firm.

The University states that the evaluation of offers was conducted in two stages. The "qualification" evaluation, which the University reports "took the form of a responsibility determination," was performed first, followed by a price evaluation of the proposals submitted by the responsible offerors. Computervision was found to be nonresponsible for failing to meet the financial resources qualification criterion of the RFP.

The determination was based on three factors. First, using a Defense Contract Audit Agency (DCAA) Contract Audit Manual "Z score prediction model," the University assessed Computervision's financial statements as indicating a trend for "probable future financial distress." Second, the evaluators understood Computervision's 10-K form to indicate that the firm is "currently under Chapter 11 Bankruptcy." Third, the University obtained a Dun & Bradstreet (D&B) report which indicated a less than satisfactory or unbalanced financial condition and a downward business trend. The University concluded that Computervision did not comply with the requirement that the offeror be "solvent and in sound financial condition" and disqualified the firm from further consideration for the award. The contract was awarded to Grumman Corporation.

In its challenge to the University's conclusion concerning its financial condition, Computervision points out that, in

fact, it has never filed for bankruptcy but that a major (formerly 100-percent) shareholder had. The protester complains that this mistake "permeated and tainted" the entire evaluation of Computervision's financial capability.

Generally, a finding of responsibility requires, among other things, that the potential contractor affirmatively demonstrate that it has sufficient financial resources to perform the contract or the ability to obtain them. Federal Acquisition Regulation (FAR) § 9.104-1. Absent such an affirmative showing, the FAR requires the contracting officer to make a nonresponsibility determination. FAR §§ 9.103(b)-(c). In making this determination, the contracting officer is vested with a wide degree of discretion and business judgment. Construcciones Electromecanicas, S.A., B-242656 et al., May 8, 1991, 91-1 CPD ¶ 448. We therefore will not question a nonresponsibility determination unless it is the result of bad faith or lacks any reasonable basis. Id.

In response to the protest, the agency has included in its report a declaration from the University cost/price analyst who was responsible for evaluating the financial status of Computervision. The analyst concedes that he mistakenly interpreted the 10-K form to state that Computervision was in bankruptcy. He states that while he noted the bankruptcy, it was not sufficient in and of itself to show financial instability. He states further that "[i]n any case, I would have proceeded with a financial analysis of Computervision and the bankruptcy issue had no effect on this decision." The financial analysis included ascertaining a Z score rating, obtaining a D&B report, and independently reviewing the financial material submitted by the protester.

When he conducted his original analysis, the cost/price analyst prepared a memorandum explaining the results of his analysis. Attached to the memorandum were calculations showing how the Z scores for Computervision were determined and how the scores should be interpreted, as well as the unfavorable D&B report. While the memorandum contained a sentence stating that Computervision is currently under Chapter 11 bankruptcy, the administrator who reviewed the memorandum and ultimately determined Computervision to be nonresponsible states that "I knew that bankruptcy alone is not grounds for determining a firm to be not responsible" and that his determination that Computervision was not responsible was based on the analysis of the cost/price analyst, the Z score rating, and the D&B report. The agency and the University concluded, therefore, that the misunderstanding concerning the bankruptcy did not materially contribute to the nonresponsibility determination

and that the determination was reasonably based and supported by substantial independent information. We agree.

While the protester contends that the error concerning the alleged bankruptcy tainted the evaluation, it is clear from the record that University officials viewed the information, at most, as a starting point for their financial review, which was required by the RFP in any event. They recognized that without detailed information, their understanding that the firm had filed for bankruptcy was of little use in their determination. Consequently, they sought independent indicators of the firm's financial condition. In light of the detailed financial information analyzed by the University indicating probable financial distress, financial instability, and a downward trend, we find that the University had a reasonable basis for its determination and that the determination did not materially result from the mistaken belief that Computervision had filed for bankruptcy.

Computervision also alleges that the University made errors in the computation of the Z scores which resulted in assigning the protester misleadingly low scores. The protester concedes, however, that even using the scores which it believes to be correct, the DCAA manual, which explains the use of the Z scores, would assign a rating of "[p]robable future financial distress," to Computervision. Nevertheless, it argues that since the University relied heavily on the Z scores, different numerical scores may have affected the University's conclusion.

The DCAA Contract Audit Manual states that the "Z score is useful in assessing financial capability risk and helping to identify contractors that may have financial problems" and in predicting "bankruptcy potential." The manual cautions that "[a]lthough the model should not be relied upon to support a financial condition assessment by itself, it does provide an initial alert to the auditor that further analysis is needed."

The Z score model uses the following five financial ratios, which are adjusted in accordance with a specified formula:

- X1 = Working capital/total assets
- X2 = Retained earnings/total assets
- X3 = Earnings before interest and taxes/total assets
- X4 = Market value of equity/total liabilities
- X5 = Sales/total assets

The Z score is the sum of these ratios, as adjusted by the formula. The manual states that the Z score is interpreted as follows:

<u>Score</u>	<u>Indicator</u>
Less than 1.81	Probable future financial distress
1.81 to 2.99	Possible future financial distress
Greater than 2.99	No or little chance of financial distress

The Z scores which the University calculated for Computervision were negative numbers. Those scores were as follows:

1991	-.009
1992	-.718
1993	-.393

During the course of the protest, the University conceded that these scores were based on the use of incorrect "earnings before interest and taxes" figures. Using the correct figures, the University states that the protester's scores would be as follows:

1991	.328
1992	-.319

(No score for 1993 was computed.)

The University argues that the original computational error was a minor, technical error which had no material bearing on the ultimate outcome of its nonresponsibility determination. Since both the original and recomputed scores fall below 1.81, the University asserts that the conclusion that the financial statements indicate probable future financial distress is unchanged.

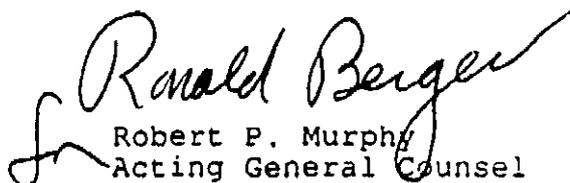
Computervision contends that the University and agency position "fails to place the Z score in its proper context and ignores other fatal mistakes in [the University's analysis]." The protester also contends that its Z scores for the last 3 years range from 1.29 to 1.45--higher than even the corrected scores assigned by the University during the course of this protest.

We need not resolve the fundamental dispute between the parties concerning the proper method of calculating Z scores. In this regard, given that the DCAA manual assigns the same indication of financial distress to the scores as calculated by the protester and the University, we do not see, nor has the protester explained, why the numerical difference is significant. As Computervision asserts, the Z scores should not be used by themselves. The protester's argument concerning the alleged errors in the Z score computation, in our view, places undue importance on the mechanics of the formula and fails to address the financial difficulties which the formula is intended to signal. In

this regard, based on the indicated probable financial distress, the University reasonably obtained the most recent D&B report that independently concluded that the financial condition of the protester was unbalanced and its trend downward. This conclusion was based on an analysis of the same financial data as that which formed the basis of the poor Z score rating. Thus, contrary to the protester's position, the University, in fact, inquired further when faced with the results of the Z score analysis indicating probable financial distress and did not "blindly" adopt that conclusion.<sup>2</sup> In sum, the University reasonably concluded that the protester was not a responsible offeror based on the poor Z scores and the D&B report, which provided an independent assessment of the firm's financial condition.

Finally, we reject the protester's argument that the University should have requested additional information from the firm before finding it nonresponsible. A contracting officer may base such a determination upon evidence in the record without affording offerors the opportunity to explain or otherwise defend against the evidence. Oertzen & Co. GmbH, B-228537, Feb. 17, 1988, 88-1 CPD ¶ 158. Moreover, there is no requirement that an offeror be advised of the determination in advance of the award. Id.

The protest is denied.

  
Robert P. Murphy  
Acting General Counsel

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<sup>2</sup>Computervision alleges that the University did not appreciate that the company is in a period of transition and that it was steadily gaining financial strength. While agencies are not required, and are generally not in a position, to predict future financial developments of an offeror, we note that the most recent D&B report continues to show a downward trend and unbalanced financial condition for Computervision. There is also no basis in the record to conclude, as the protester does, that the University "ignored" the "important financial data contained in the D&B report" such as worldwide revenues--this information was readily available from both the 10-K and the D&B report.