



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Command Technology, Inc.

File: B-277538.2

Date: April 28, 1998

Igor Boris for the protester.

Kathy B. Cowley, Esq., and Maria Bellizzi, Esq., Department of the Navy, for the agency.

Christine F. Davis, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

In making multiple awards on the basis of a price/technical tradeoff, agency reasonably determined that one awardee's significant price advantage overcame the minor technical advantages afforded by the protester's proposal, while another awardee's significant technical advantage overcame the slight price advantage of the protester's proposal.

DECISION

Command Technology, Inc. (CTI) protests its failure to receive an award under request for proposals (RFP) No. N00600-96-R-3241, issued by the Department of the Navy, Naval Supply Systems Command, for scanning and conversion services in support of the Defense Automated Printing Service.

We deny the protest.

The RFP contemplated the award of one or more contracts for the conversion of documents in a paper or microform format to an electronic data base. RFP § M.1. The RFP provided for the award(s) to be made on a fixed-price, indefinite-quantity, indefinite-delivery basis for a base year plus 4 option years. RFP §§ B, L.17.

The RFP advised that the government may elect to pay a price premium to select a technically superior proposal for award. RFP § M.3(e). The RFP evaluation factors were (1) past performance, (2) technical understanding and approach/oral presentation, and (3) price, including options. RFP §§ M.2(a), M.6, M.7. Past performance was the most important factor, and the combined weight of the past performance factor and the technical understanding and approach/oral presentation factor was significantly more important than price. RFP §§ M.3(d), M.7(a).

The technical understanding and approach/oral presentation factor provided for an evaluation of the offeror's ability to perform the contract and its understanding of the eight work categories encompassed by the RFP. RFP § M.2(a). The past performance factor provided for an evaluation of the quality, depth, and relevance of the offeror's past performance, considering information obtained from the offeror and its past performance references. RFP §§ L.11(c), M.7(b), (c). The RFP stated adjectival ratings for the evaluation of technical and past performance proposals. The possible technical proposal ratings were "outstanding," "better," "acceptable," "marginal," or "unacceptable," while the possible past performance ratings were "neutral,"¹ "outstanding," "better," "satisfactory," and "marginal." RFP §§ M.2(b), M.3(c), M.7(d). The RFP stated that a "marginal" past performance rating would not render a proposal ineligible for award, but warned that "an acceptable technical proposal and marginal past performance [proposal] . . . with the lowest price may not be selected if award to a higher-priced proposal affords the Government a greater overall benefit."² RFP §§ M.3(e), M.7(d).

The agency received 13 proposals in response to the RFP. Nine proposals, including CTI's, were put in the competitive range. One firm withdrew from the competition, and the agency, after conducting two rounds of discussions, received best and final offers from the remaining eight offerors on September 22, 1997.

On November 20, the Navy completed a price/technical tradeoff between the four lowest-priced proposals, which were rated as follows:

	Docucon	CTI	ActiveSystems	Doc-U-Care
Price	\$77,763,250	\$76,922,500	\$67,333,175	\$58,463,471
Past Performance	Outstanding	Outstanding	Better	Outstanding
Technical	Outstanding	Acceptable	Acceptable	Acceptable

Those proposals that were lower-rated and higher-priced than Docucon's were not considered in the price/technical tradeoff.

Based upon the evaluation results, the agency made awards to Docucon, Doc-U-Care, and ActiveSystems, but not to CTI. The agency concluded that CTI's

¹The agency was to assign a "neutral" past performance rating where the offeror lacked relevant past performance experience. RFP § M.7(c), (d).

²Contrary to the protester's interpretation, the above provision does not mandate award to the lowest-priced proposal earning better than a "marginal" past performance rating.

technical advantage over ActiveSystems was not worth the associated \$9,589,325 price premium, while Docucon's technical advantage over CTI was worth the associated \$840,750 price premium. Doc-U-Care's lowest-priced proposal, which was rated technically equal to CTI's, was also selected--CTI does not challenge Doc-U-Care's award.

In performing the tradeoff between CTI's and ActiveSystems' proposals, the agency determined that the technical superiority of CTI's proposal was not significant enough to overcome ActiveSystems' \$9,589,325 price advantage. In considering the technical superiority of CTI's proposal, the Navy noted that CTI's past performance rating, while better than ActiveSystems', was based upon far fewer past performance references; the Navy characterized CTI's past performance rating as "(a weak) outstanding," as compared to "(a strong) better" rating earned by ActiveSystems. In addition, even though CTI's and ActiveSystems' technical proposals both earned overall "acceptable" ratings, ActiveSystems' proposal received a stronger acceptable rating because it demonstrated a better understanding of certain work categories than did CTI's proposal. Accordingly, the agency did not deem CTI's somewhat superior proposal to be worth the significant price premium.

In performing the tradeoff between CTI's and Docucon's proposals, the agency observed that Docucon's proposal price was only \$840,750, or 1 percent, more than CTI's proposal price. The agency considered this price premium negligible to obtain the technical advantages afforded by Docucon's highest-rated proposal. In terms of technical merit, only Docucon's proposal earned "outstanding" ratings under both the past performance and the technical understanding and approach/oral presentation factors. In comparison, CTI's proposal only earned an "acceptable" rating under the technical understanding and approach/oral presentation factor. Furthermore, while both proposals earned "outstanding" past performance ratings, the Navy believed Docucon's past performance was of greater value because Docucon, the incumbent contractor, had successfully performed the solicited services for the past 10 years. The agency found that it would "directly benefit" from Docucon's successful experience and outstanding performance as the incumbent contractor "by not having to provide any guidance or oversight throughout the life of this contract to ensure successful completion of the tasks." Accordingly, the agency concluded that the advantages associated with Docucon's past performance and its technical understanding and approach merited the payment of the small price premium.

CTI protests that the agency should have made multiple awards based upon the three lowest-priced proposals, Doc-U-Care's, ActiveSystems', and CTI's. The protester argues that the agency, after declining to pay a price premium in making awards to Doc-U-Care and ActiveSystems, could not then pay such a premium in making award to Docucon. According to CTI, the agency selected Doc-U-Care's and ActiveSystems' proposals because they were technically acceptable at a lower price

than CTI's. The protester asserts that the Navy abandoned this rationale in selecting Docucon's proposal, which amounted to unequal treatment of CTI.

In a best-value acquisition, agencies are not required to make award on the basis of low cost or price; agencies may make price/technical tradeoffs, and the extent to which one is sacrificed for the other is governed only by the test of rationality and consistency with the stated evaluation criteria. KPMG Peat Marwick, L.L.P., B-271673, July 15, 1996, 96-2 CPD ¶ 53 at 5. In reviewing protests against allegedly improper evaluations and source selection decisions, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the RFP's stated evaluation factors. Jack Faucett Assocs., B-277555, Sept. 12, 1997, 97-2 CPD ¶ 71 at 3. A protester's mere disagreement with an agency's evaluation and source selection decision does not render the results unreasonable. Id.

Contrary to the protester's suggestion, the RFP did not require that the agency make award based upon the low-priced, technically acceptable proposal(s), nor does the record support that the agency employed such a rationale in its selection decisions. To the contrary, the RFP in this case provided that the government may elect to pay a price premium to select a technically superior proposal for award, RFP § M.3(e), and the record shows that the agency performed a price/technical tradeoff in choosing between proposals superior to CTI's from either a price standpoint (ActiveSystems' proposal) or a technical standpoint (Docucon's proposal). The fact that the agency decided that CTI's proposal did not represent the best value in the face of either ActiveSystems' price advantage or Docucon's technical advantage does not establish that the agency violated the evaluation scheme or treated offerors unequally; rather, it reflects the relative position of the competing proposals based upon the results of the price and technical evaluations.

The record supports the agency's judgment that there was no significant technical difference between CTI's and ActiveSystems' proposals to justify the payment of the significant price premium. Both proposals earned "acceptable" ratings under the technical understanding and approach/oral presentation factor, and the awardee's "better" past performance rating inspired almost as much confidence as the protester's "outstanding" past performance rating in view of the far greater number of references attesting to the awardee's strong performance.

Likewise, the record supports that there was a significant technical difference between CTI's and Docucon's proposals to justify the payment of the nominal price premium. The awardee's proposal was unique in earning "outstanding" ratings under both non-price factors. Not only was the awardee's "outstanding" technical proposal more attractive than the protester's "acceptable" technical proposal, the awardee's "outstanding" past performance proposal boasted an advantage not shared by the protester's "outstanding" past performance proposal, namely, the awardee's directly relevant, successful experience as the incumbent contractor.

Based upon our review, the agency's justification for preferring both ActiveSystems' lower-priced proposal and Docucon's higher-rated proposal over CTI's proposal was reasonable and consistent with the evaluation scheme. We therefore find no basis to object to the agency's failure to make award to CTI.

The protest is denied.

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