



**G A O**

Accountability \* Integrity \* Reliability

**Comptroller General  
of the United States**

**United States General Accounting Office  
Washington, DC 20548**

**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

## **Decision**

**Matter of:** Data Monitor Systems, Inc.

**File:** B-291791

**Date:** March 27, 2003

---

Donald E. Barnhill, Esq., Barnhill & Associates, for the protester.  
Craig A. Holman, Esq., and Kara L. Daniels, Esq., Holland & Knight, for Phoenix Management, Inc., an intervenor.  
Gregory H. Petkoff, Esq., Department of the Air Force, for the agency.  
Susan K. McAuliffe, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### **DIGEST**

Protest of selection of slightly higher-priced offeror with higher-rated past performance is denied where selection decision was consistent with solicitation scheme and reflected a reasonable price/past performance tradeoff.

---

### **DECISION**

Data Monitor Systems, Inc. (DMS) protests the selection of Phoenix Management, Inc. (PMI) under request for proposals (RFP) No. F04666-01-R-0003, issued by the Department of the Air Force for base operation services at Beale Air Force Base. The Air Force issued the RFP in connection with an Office of Management and Budget (OMB) Circular A-76 commercial activities study. DMS questions the agency's evaluation of proposals, contends that the agency should have given greater weight to the extent of each offeror's aircraft maintenance experience due to the importance of the base's aircraft reconnaissance work, and argues that the agency improperly determined that PMI's higher-rated, slightly higher-priced proposal offered the best value to the agency.

We deny the protest.

The Air Force issued the RFP to select a commercial offeror to compete against the government's in-house "most efficient organization" (MEO) pursuant to the

procedures of the OMB Circular A-76 cost comparison process.<sup>1</sup> The RFP provided that the agency would select the “best value offeror” whose proposal was most advantageous to the government considering three evaluation factors—technical capability, past performance, and price. Technical proposals, to be evaluated on a pass/fail basis, were to be reviewed for performance management, technical capability, and program management to meet the RFP’s detailed performance requirements. The technical evaluation was to assess each offeror’s understanding of, and ability to comply with, the RFP’s performance requirements.

Tradeoffs were to be made among the technically acceptable proposals on the basis of two approximately equal factors, past performance and price. Past performance was to be evaluated through an integrated assessment of risks and strengths demonstrated in the recent performance of relevant contracts. Past performance was to be assessed under six “business units”: information technology; communications; transportation; supply; human resources; and aircraft maintenance. The RFP did not provide relative weights for the six business units. Price proposals were to be evaluated for reasonableness and the firm’s understanding of performance requirements. The solicitation advised that selection of a higher-priced offeror was permitted where the SSA reasonably determined that the higher-priced offeror’s superior past performance outweighed the cost difference between proposals.

The five offers received by the agency were included in the competitive range, discussions were conducted, and proposal revisions were reviewed. Each of the technical proposals was considered acceptable and received a “pass” rating. The Performance Risk Assessment Group (PRAG) evaluated offeror past performance strengths and weaknesses under each of the six business units (*i.e.*, information technology, communications, transportation, supply, human resources, and aircraft maintenance). The DMS proposal, with an evaluated price of \$80,327,922, received a past performance rating of “very good/significant confidence,” for presenting little doubt that the offeror will perform the requirements successfully. The PMI proposal, evaluated at \$85,410,430 (*i.e.*, approximately 6.3 percent higher than the evaluated price of the DMS proposal), received an “exceptional/high confidence” past performance rating for presenting essentially no doubt that the offeror will successfully perform the required effort. Two other proposals were rated lower for past performance than the DMS and PMI proposals; one of those proposals was lower-priced and one was higher-priced than the protester’s proposal. The fifth

---

<sup>1</sup> The procedures for determining whether the government should perform an activity in-house, or have the activity performed by a contractor, are set forth in OMB Circular A-76 and the Circular’s Revised Supplemental Handbook. This protest concerns the competition among private-sector firms to be selected for comparison with the MEO; such a competition is conducted much as any competitive federal procurement is conducted.

offeror's proposal was rated as high as PMI's proposal, but offered a higher price than that offered by PMI. The SSA's final tradeoff review focused primarily on the PMI and DMS proposals.

In reviewing the relevance of the offerors' past performance information, the SSA noted that PMI had demonstrated more relevant, higher-rated past performance experience than DMS under several of the business units evaluated. PMI's past performance references had rated the firm's performance as exceptional, the highest rating available, for supply, transportation, communications, human resources, and information technology.<sup>2</sup> The SSA concluded that, although some concern had been raised by the PRAG as to PMI's limited experience under the remaining business unit, aircraft maintenance, the concern was limited to only one of six business units, the firm did show exceptional performance of at least two of seven work areas within the aircraft maintenance unit, the balance of the RFP's aircraft maintenance work involved routine agency maintenance procedures, and the firm's consistent exceptional past performance in all other areas reasonably demonstrated essentially no doubt that the firm would successfully perform the RFP's overall requirements.

Comparing DMS's lower-priced, lower-rated proposal with PMI's, the SSA determined that PMI's superior past performance outweighed the 6.3 percent price premium associated with selection of PMI under the RFP. PMI consequently was selected as the "best value offeror" to compete in the second phase of the cost comparison study with the MEO. Following a detailed debriefing, DMS filed this protest. DMS alleges that the agency improperly evaluated proposals and unreasonably selected PMI's higher-priced proposal as representing the best value to the agency.

In reviewing an agency's proposal evaluation, we examine the record to ensure that it was reasonable and consistent with the solicitation's evaluation terms and applicable statutes and regulations. Digital Sys. Group, Inc., B-286931, Mar. 7, 2001, 2001 CPD ¶ 50 at 7. In deciding between competing proposals, tradeoffs, such as between past performance and price, may be made. The propriety of the tradeoff does not depend on the mere difference in technical scores or ratings, but on the reasonableness of the source selection official's judgment concerning the significance of the difference. Id. An offeror's mere disagreement with the agency does not render the source selection unreasonable. See Encorp-Samcrete Joint Venture, B-284171, B-284171.2, Mar. 2, 2000, 2000 CPD ¶ 55 at 4.

---

<sup>2</sup> PMI's past performance references evaluated the firm's performance as "exceptional" for 11 of 15 contracts reviewed, and "very good" for the balance. The majority of DMS's 12 contracts that were reviewed were evaluated by DMS's references as "very good" (for 6 of the 12 contracts); 4 were rated "exceptional" and 2 were rated "satisfactory."

DMS primarily challenges the high overall past performance rating assigned to the PMI proposal despite that firm's limited aircraft maintenance experience. DMS argues that, since Beale Air Force Base houses the 9<sup>th</sup> Reconnaissance Wing, and the base operation services described in the RFP support the group's critical need to fly and maintain its aircraft, for evaluation purposes under the RFP, the aircraft maintenance business unit should have been considered more important to the review of past performance and a determination of an offeror's anticipated successful performance of the RFP requirements.

DMS, which was rated highest for past performance under the aircraft maintenance business unit, based on the experience of its aircraft maintenance subcontractor, has not provided sufficient support for its contentions of impropriety in the evaluation of offeror past performance. First, contrary to DMS's apparent view, the RFP did not assign greater weight to the aircraft maintenance business unit than the other five business units--under which units PMI had received the highest possible ratings. The six business units to be evaluated in terms of offeror past performance were identified in the RFP in terms of relevant areas of work, but no varying weights among the six subfactors were provided. In the absence of any indication of the relative weight of evaluation criteria, it is proper for an agency to give equal weight to the listed criteria--here, the six business units therefore were reasonably considered to be of equal weight in the evaluation of past performance. See Logicon RDA, B-252031.4, Sept. 20, 1993, 93-2 CPD ¶ 179 at 7. To the extent DMS contends that the aircraft maintenance business unit should have been assigned greater weight in the RFP's evaluation scheme, its protest is untimely. To be timely, such an alleged solicitation impropriety had to be protested prior to the closing time for the receipt of proposals. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (2003).

DMS generally alleges that PMI's limited experience under one of the six equally weighted business units should have lowered the firm's overall past performance rating substantially. We do not agree. DMS apparently has chosen to ignore the documented strengths of PMI's overall exceptional past performance under the remaining five business units. Our review of the record supports the reasonableness of the agency's findings of PMI's demonstrated ability and strong performance of the vast majority of the business units' detailed performance requirements and the overall exceptional rating assigned to the proposal for past performance. As the agency reports, given the straightforward nature of the anticipated routine aircraft maintenance, and the multitude of exceptional past performance ratings the firm received relevant to all of the business unit requirements, including exceptional ratings from references regarding PMI's performance of some relevant aspects of the overall aircraft maintenance requirements, we see no basis to question the

reasonableness of the agency's determination of essentially no doubt that PMI will successfully perform the RFP's full requirements.<sup>3</sup>

As stated above, in his detailed tradeoff analysis, the SSA considered the many strengths associated with the PMI proposal, including its past performance references' exceptional ratings for the performance of contracts relevant to five of the six business units. For the remaining business unit, aircraft maintenance, the SSA noted the reported exceptional performance by PMI of at least a limited amount of work directly relevant to the aircraft maintenance business unit. On the other hand, DMS showed no experience under the human resources unit, a lack of MSS Data Systems experience relevant to the information technology unit, a lack of systems control experience for the communications unit, and only limited (in terms of smaller magnitude) experience under the transportation unit. Given the agency's need for successful performance of requirements under each of the six equally important business units and the documented strengths in PMI's overall past performance experience, we find no merit to the protester's challenge to the reasonableness of the SSA's determination that the superiority of PMI's higher-rated proposal warranted the slight price premium associated with it.

The protest is denied.

Anthony H. Gamboa  
General Counsel

---

<sup>3</sup> We also note that, to the extent DMS argues for the first time in its comments that the evaluation of past performance under the communications business unit was unreasonable and that DMS's proposal unreasonably was downgraded under the unit for a lack of satellite communications (SATCOM) experience, while PMI's was not, the protester has failed to support its contention. Rather, our review of the record supports the lower rating assigned to DMS's proposal. The record clearly shows that although both DMS and PMI were found to lack the referenced SATCOM experience, DMS was downgraded under the communications unit primarily for lacking critical systems control experience, while PMI, on the other hand, was the only offeror to demonstrate relevant, favorable experience in this area.