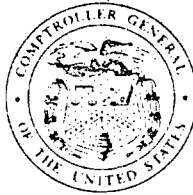


# DECISION



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

FILE: B-186619

61535  
DATE: September 22, 1976

MATTER OF:

DOT Systems, Inc.

97988

## DIGEST:

1. Protest that total small business set-aside award was made to firm that was not small business on basis of relationship with larger firm is academic since award was made to different firm with no apparent affiliations.
2. Record indicates that reasonable basis existed to determine protester's proposal outside of competitive range where evaluation panel found proposal failed to demonstrate understanding of required tasks and personnel experience was not adequate.
3. Agency improperly evaluated cost proposal for cost-reimbursement contract by assigning most points to lowest proposed estimated cost without conducting independent evaluation of realism. Since protester's proposal was determined to be outside competitive range and its cost proposal was not considered, deficiency was not prejudicial.

DOT Systems, Inc. (DOT), protests the award of a contract to another firm for logistical and technical support to the Commission for the Control of Epilepsy and Its Consequences, and the Commission for the Control of Huntington Disease and Its Consequences (Commission), pursuant to request for proposals (RFP) 263-76-P(62)-0180, issued by the National Institutes of Health (NIH), Bethesda, Maryland.

The RFP was a total small business set-aside. The evaluation criteria and subcriteria were listed in the RFP, along with the point total possible for each of the three technical categories-- understanding the objectives of the project, 40 points; personnel, 40 points; prior experience, 20 points. The RFP informed offerors that technical considerations were paramount, but that the proposed cost estimate would receive descending scoring, starting at 50 points, that would be added to the technical score to arrive at one overall score.

Nine proposals were received and evaluated by a technical review panel. DOT received points for each respective category of 26, 23 and 10.2, for a total of 59.2. Six other proposals were ranked higher than DOT with scores ranging from 89.8 to 67. The top five proposals were determined to constitute the competitive range. Ultimately, considering proposed cost points, Capital Systems Group, Inc., received the highest point total.

Upon being informed that its proposal was not in the competitive range, on May 24, 1976, DOT protested before an award was made. Initially, DOT traces its experience with other protests to NIH. DOT fears that the NIH procurement personnel may have become hostile toward it as a result of its prior protests. The protester requests that our Office determine whether its proposal was given fair consideration. Additionally, DOT believes that award was made to Systemetrics, the firm receiving the highest technical rating. Based upon comments of the technical evaluation panel contained in the report from NIH, DOT notes that Systemetrics' proposal was considered acceptable due to its close relationship with another larger firm. The protester questions whether this relationship alters Systemetrics' size status.

On June 30, 1976, it was determined by the Director, Administrative Services, NIH, and approved by the Deputy Assistant Secretary for Grant and Procurement Management, to make an award notwithstanding the protest due to the urgency of the procurement. See Federal Procurement Regulations (FPR) § 1-2.407-8(b)(4)(i) (1964 ed. amend. 68). Award was thereafter made to Capital Systems Group, Inc. Thus, DOT's basis of protest that Systemetrics was not a small business is academic and will not be considered. We note in this regard that the ability of Capital Systems Group, Inc., to perform was not considered dependent upon its relationship with any other firm.

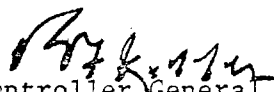
As for DOT's request that the procurement be reviewed to assure that its proposal received fair consideration, it should first be noted that it is the function of the procuring agency and not our Office to make technical evaluations and judgments. System Innovation & Development Corp., B-185933, June 30, 1976, 76-1 CPD 426. We have reviewed the record of the evaluation and find no basis to conclude that the evaluation was a manifestation of hostility toward DOT or was otherwise an unfair evaluation.

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The evaluation panel noted that DOT's proposal demonstrated a significant lack of understanding of the total logistic and technical services required. Also considered was the failure to demonstrate an appreciation for the necessity for flexible scheduling and workload sequencing in an unpredictable atmosphere. Personnel organization and the failure to indicate specific individuals with a requisite range of skills also detracted from DOT's proposal.

Accordingly, the protest is denied.

However, in a similar case, DOT Systems, Inc., B-185558, August 26, 1976, our Office concluded that an evaluation for a cost-reimbursement contract which accords points to the lowest proposed cost proposal without conducting an independent investigation of the realism of those proposed costs was improper. See FPR § 1-3.807-2 (1964 ed., amend. 103). Since in this case DOT was not considered to be in the technical competitive range and its cost proposal was not evaluated, the improper evaluation did not prejudice DOT's chances for the contract award.

  
Acting Comptroller General  
of the United States