

**DECISION**



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

FILE: B-184835

DATE: February 23, 1976

MATTER OF: Automated Systems Corporation

**DIGEST:**

1. Where RFP amendment stated that if printer/plotter is not available through offeror, proposal will be evaluated using price of Federal Supply Schedule (FSS) printer/plotter, protest against limiting cost of printer/plotter to FSS price should have been registered prior to closing date for receipt of proposals following issuance of amendment and is untimely under Bid Protest Procedures.
2. RFP conveyed that performance beyond required minimum would be accorded higher points, since "Evaluation Factors" provision listed an intermediate factor of "Excess Capability and/or Expandability" and procurement "Objective" in RFP contained statement indicating that capability beyond minimum requirement would be considered.
3. While separate determination should be made to justify award to high scored, high priced proposal in fixed-price procurement where cost is evaluated as factor along with other considerations, determination is procedural in nature, and does not affect validity of award if proper basis for award existed.
4. When evaluation scheme, including cost as point factor (major) along with other factors (minor), results in overall score of two high ranked proposals at 370 and 369 (out of 400), award to highest ranked proposal is proper since evaluation considered relative importance of all factors.

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5. Where amendment of RFP contemplated evaluation on basis of FSS printer/plotter price where it is not available through offeror, absence of evaluation on that basis of proposal that offered printer/plotter was not incorrect. Preferable course of action would have been for agency to have provided for the evaluation of all proposals on the basis of lowest cost, either from proposer or FSS.

Automated Systems Corporation (ASC) has protested the award of a contract to Interdata for a dedicated data acquisition and process control system for the United States Army Corps of Engineers (Corps) to simulate conditions in the Chesapeake Bay area for study.

Request for proposals (RFP) No. DACW39-75-R-0021 was issued on the basis of furnishing one integrated system. Seven proposals were received. The top five ranked proposals were determined to be in the competitive range. While the evaluation of the proposals was occurring, the Corps anticipated the need for a second system. An amendment (No. 0002) to the RFP providing for the optional purchase of the additional system was sent to the five firms in the competitive range. The amendment also made the previously mandatory printer/plotter an optional feature. Revised proposals were received timely from three of the five offerors. The composite evaluation scores for the basic and optional systems were as follows:

Interdata	387
ASC	368
General Automation	352

The evaluation results were referred to the Engineer Information and Data Systems Office for confirmation. Approval to purchase the system was not granted. Consequently, the proposals were evaluated again; this time on the basis of the basic system with the printer/plotter. The final scores, with reflected total prices, were:

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Interdata	370	- \$ 81,958.80
ASC	369	- 75,571.00
General Automation	358	- 80,490.00

Interdata was the only firm that did not offer a printer/plotter. Accordingly, as provided in amendment No. 0002, Interdata's evaluated price included the cost (\$7,761.50) of a printer/plotter from the Federal Supply Schedule (FSS). Award was made to Interdata on August 12, 1975, as the highest ranked offeror, cost and other factors considered.

ASC protested the award by telex dated August 27, 1975, on multiple grounds. ASC maintains that the Corps employed evaluation criteria not stated in the RFP. ASC stated that the Corps informed it "other factors" had caused the selection of Interdata. These factors were better register addressing, faster floating point arithmetic, availability of 32 bit registers, Fortran V capability and better I/O (input/output) handling. ASC states that it was informed that additional costs were added to its base price for training expenses without provision in the RFP for evaluating its proposal on that basis. Further, ASC notes the absence of discussions between it and the Corps. ASC maintains, in light of the foregoing, that the evaluation criteria in the RFP failed to fully convey that weight would be accorded proposals for features offered above the minimum requirements reflected in the specifications. ASC states that had the Corps availed itself of the opportunity to discuss ASC's proposal, it would have offered improvements comparable to those listed for Interdata. Also, on this point, ASC states that the Corps' understanding of the memory mapping system in the Hewlett-Packard computer ASC offered is incorrect because it can address greater than 32K words faster than the Interdata model offered. ASC believes that meaningful discussions could have clarified the point.

ASC also protests the Corps' treatment of the optional printer/plotter. Initially, ASC alleges that the Corps erroneously failed to include integration costs associated with the attachment of such a peripheral to the main frame computer.

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Alternatively, ASC notes that its proposal clearly separated the cost of the printer/plotter (\$9,462) from the rest of the price proposal. Since the Corps was aware that it could purchase a printer/plotter for \$7,761.50 from the FSS, ASC contends it should have discussed ASC's offered printer/plotter to obtain the reduced cost benefits. Additionally, acting in that manner, the points assigned to Interdata for cost would have been less according to the formula utilized by the evaluation board. Under the formula,  $\text{weight} = 200(2 - x/x_0)$ , the numerator is the prorated cost over 5 years and the denominator is the prorated cost for the least expensive system. ASC's calculations show:

Government Evaluation

	<u>Central Processing Unit</u>	<u>Printer/Plotter</u>	<u>Total</u>	<u>Points</u>
ASC	\$66,190.00	\$9,462.00	\$75,571.00	200
Interdata	74,197.30	7,761.50	81,958.80	183

Proposed Evaluation

ASC	\$66,109.00	\$7,761.50	\$73,870.50	200
Interdata	74,197.30	7,761.50	81,958.80	178

Considering that Interdata's score on price would be 5 points less under the proposed evaluation, ASC's total points of 369 would be high while Interdata would drop to second with 365. ASC stresses that the Corps acknowledges that its proposal is technically satisfactory. Therefore, it contends that award should have been made to ASC as the low-priced, technically acceptable offeror.

In response to the protest, the Corps emphasizes that Interdata was selected as the highest rated offeror, cost and other factors considered. For background purposes, the Corps relates that it was the "primary intent" of the RFP "to obtain a suitable system for which the total cost (not capital outlay) of implementation

operation would be the least." Of secondary importance was the fact that " \* \* \* performance and capabilities in excess of an absolute minimum would be of significant value to the Government." Thus, the Corps asserts:

"[T]he evaluation criteria \* \* \* were \* \* \* carefully designed to weigh the offsetting effects of cost and performance. In particular, the evaluation criteria were designed to support the selection of a system on the basis of the least cost for implementation as opposed to the selection of the system which represented the least initial capital outlay."

The evaluation criteria that prompted the foregoing statement of the Corps' interpretation were in section D of the RFP, "Evaluation Factors For Award." The "Objective" as stated at section D(2)(a) is " \* \* \* to insure the selection of equipment which is adequate in all respects \* \* \* and which is optimum in terms of capability and cost." The "Evaluation Factors" were stated in section D(2)(b) as follows:

"Five major factors will be used in the evaluation. Each major factor has been subdivided into intermediate factors. The major and intermediate factors are listed below. Cost will be the most important factor; other major factors are of less importance and weigh equally.

"(i) Cost.

Equipment  
Software  
Training  
Maintenance

"(ii) Vendor Support.

Training Support  
Technical Support  
Maintenance  
Implementation (machine time for testing  
and program checkout, and  
location of test facilities)  
Ancillary Considerations  
Support Personnel  
Specific Experience  
Related Experience

"(iii) Equipment.

Reliability  
Efficiency  
Excess Capability and/or Expandability  
Overall Compatibility  
Physical Design

"(iv) Real Time Operating System.

Reliability  
Documentation  
Ease of Use  
Adaptability of System to Project Objectives

"(v) Software.

Documentation  
Supplemental Software  
Efficiency  
Ease of Use  
Diagnostic Capability"

The Corps denies that it used criteria not stated in the RFP in the evaluation of proposals. The Corps maintains that the statement in section D(2)(a), concerning the objective to procure "adequate" equipment which provides the "optimum in terms of capability and cost," is sufficient identification of the Corps' concern with the technical capabilities of the offered equipment above the stated minimum. Therefore the Corps believes that "[I]t should have been clear to ASC that all proposers considered in the final evaluation could have provided adequate equipment, and that increased capability was weighted against cost."

As for ASC's contention that the "other factors" that prompted the selection of Interdata were only "nice features" that were technical luxuries, the Corps maintains that, when considered together, these factors rendered the Interdata equipment superior. As to whether discussions with the proposers would have changed the end result, the Corps "\* \* \* did not see that any such discussion was necessary." In their view, the revised proposals "\* \* \* were sufficiently clear to indicate what was being proposed by the offerors and the evaluation board did not believe that any further discussions would result in a better product, a lower cost, or change the standing of the offerors."

On the matter of the printer/plotter, the Corps states that it considered the problems associated with integrating the item and determined them to be so minimal that they were not included as an evaluation item. This judgment was reached after considering that the Corps staff has integrated printer/plotters into other systems. The Corps states that in this instance both the hardware interface and software are available from the equipment manufacturer. In addition, an electrostatic printer/plotter of the brand selected by the Government is operating satisfactorily on an Interdata computer where the operating system is the same as here. The Corps does note that Interdata did receive less points under the factor of Vendor Support for not proposing to supply integrated software. Finally, the Corps maintains that this aspect of the protest is untimely under our Bid Protest Procedures, 40 Fed. Reg. 17979 (1975). It is the Corps' position that the basis for ASC's protest concerning integration cost should have been known to ASC when amendment 0002 made the requirement for the printer/plotter optional. Any protest filed after the closing date for receipt of revised proposals is untimely in the Corps' opinion.

We concur with the Corps on the latter point. The amendment stated if the printer/plotter is not available through the offeror, the proposal will be evaluated by using the price of the printer/plotter available to the Government through the appropriate FSS. If ASC had any protest against limiting the cost of the printer/plotter to the price on the FSS, it should have been registered prior to the closing date for receipt of proposals following the issuance of the amendment. See § 20.2 (b)(1) of the Bid Protest Procedures. Accordingly, the protest that the integration cost should have been included in the evaluation of the Interdata proposal is not for consideration.

Offerors must be informed of the evaluation factors and relative importance to be attached to each. 51 Comp. Gen. 272 (1971). Further, offerors should be given notice of any minimum standards to be required as to any particular element together with reasonably definite information as to the degree of importance to be accorded particular factors in relation to each other. 49 Comp. Gen. 229 (1969). Within this framework, we have excluded from this principle subcriteria that simply define the major evaluation factors which form the judgmental bases for award. AEL Service Corporation, et al., 53 Comp. Gen. 800 (1974), 74-1 CPD 217.

The evaluation factors in the immediate RFP list the major factor as well as the subfactors. The evaluation sheet which the evaluation board used reflects only those items stated in the RFP. The RFP stated that cost is the most important factor and that the other major factors all weighed equally, but were of less importance than cost. Although the RFP did not state the maximum number of points available for each category, the maximum number available for cost was 200 and each of the other 4 factors had a maximum of 50.

In the scoring, only price was considered in connection with the cost of the item. There is no indication that ASC's price proposal was downgraded for the expense of Government personnel at training sessions, since its price was evaluated as offered and it received the maximum 200 points for cost. The difference in proposals on training is reflected in the "Training Support" intermediate factor under the "Vendor Support" major factor. Interdata received all of the 15 points available for this category while ASC scored 10 points.

We do not find the RFP was inadequate by not clearly stating that performance beyond the required minimum would be accorded higher points. We note, for instance, that "Evaluation Factors" subsection (iii), "Equipment," listed as an intermediate factor "Excess Capability and/or Expandability." Further, the statement of the procurement objective in section D(2)(a), supra, was an indication that capability beyond the minimum requirement would be considered. Moreover, it is unreasonable to assume where there is one proposal offering significant operational capabilities beyond that of another proposal that both technical proposals will receive equal weight. Digital Equipment Corporation, B-183614, January 14, 1976.

Furthermore, in a negotiated procurement where price is considered as an evaluation factor, certain cost/technical tradeoffs may be made. The extent to which one is sacrificed for the other is ruled by the evaluation scheme and the weight accorded each factor. However, while sacrificing technical consideration may boost a score for price, the increase in one score may not offset the decrease in the other. That is the reason for the requirement that offerors be informed of the relative importance of each major judgmental factor. Here, ASC's reduced costs for its training approach helped it achieve the maximum point total. This advantage was offset in the area of Vendor Support, where Interdata received 47 of 50 points, while ASC received 38 points.

It should be emphasized at this point that the procuring activity is charged with the duty to write specifications for its procurements to reflect its needs. The procuring activity also possesses considerable latitude to determine the technical merits of proposals submitted to satisfy its needs. Such determinations will be questioned by our Office only upon a clear showing of unreasonableness, an arbitrary abuse of discretion or a violation of the procurement statutes and regulations. Riggins & Williamson Machine Company, Inc., et al., 54 Comp. Gen. 783 (1975), 75-1 CPD 168. While ASC disputes the superiority of some features of the Interdata equipment, we are unable to conclude from the record that the Corps' determination that there were superior features in the Interdata equipment was arbitrary or unreasonable.

However, given the superiority of the Interdata proposal, the question remains whether the selection was valid in the face of the stated evaluation factors. In negotiation, as distinguished from formal advertising, award selection may consider factors other than price. Where a fixed-price award is contemplated, as here, and cost is assigned points as an evaluation factor along with other factors, the fact that a proposal receives the highest number of points does not in itself justify acceptance of the highest scored proposal without regard to price. 51 Comp. Gen. 153 (1971). Rather, if a lower priced, lower scored offer meets the Government's needs, acceptance of a higher priced, higher scored offer should be supported by a specific determination that the technical superiority of the higher priced offer warrants the additional cost involved. Bell Aerospace Company, B-183463, September 23, 1975, 75-2 CPD 168. The determination should document for the file the factors which the source selection official deems justify paying the price premium.

As stated previously, the factors upon which the Corps supports the award to Interdata were categorized as hardware--better addressing, faster floating point arithmetic, availability of 32 bit registers; and software--Fortran V capability, better I/O handling. In the judgment of the evaluation board these factors were considered "extremely important." In its report, the Corps summarizes the view of technical advantages of the Interdata equipment as follows:

"The method of addressing memory which is employed in the HP computer proposed by ASC is much less

efficient than are other methods of memory addressing and makes the HP computer relatively undesirable \* \* \*. Of lesser, but still substantial importance were comparisons of performance which indicated that as a result of the generally higher performance of the Interdata machine and particularly because of the higher floating point arithmetic speeds and superior memory management, more efficient data analysis programs could be developed for the Interdata than for the HP computers."

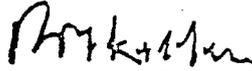
ASC has disputed the correctness of the Corps' assessment of its memory mapping system and its speed of addressing. Further ASC has submitted information which indicates that actual floating point arithmetic calculation time is not 3 times slower for the HP computer, as claimed by the Corps. Notwithstanding this factual dispute, there is no indication that the Corps performed a separate analysis documented in the procurement file to justify the award to a higher price offeror. However, the Corps attempted to justify the award in the administrative report. The time of preparation of the justification does not affect the substance of the justification. The requirement is procedural in nature and does not affect the validity of an award if a proper basis for the award existed.

Under the evaluation formula, each factor was weighted to indicate the relative importance of each to the Government. Applying those weighted factors, the fact is that Interdata received the highest point total. That evaluation considered the overwhelming emphasis on price and Interdata's technical approach overcame ASC price advantage. Thus, we find no fault with the selection process.

ASC has contended that if its cost would have been evaluated like Interdata's on the basis of the price of the printer/plotter on the FSS, that would have had an effect on the evaluation cost formula which would have resulted in Interdata receiving a total evaluation score lower than the ASC evaluation score. Since amendment No. 0002 contemplated evaluation on the basis of the FSS printer/plotter where it "is not available through the offeror," the absence of an evaluation of the ASC proposal on that basis was not incorrect. However, in our view it would have been preferable for the Corps to have provided for the evaluation of all proposals for the optional printer/plotter on the basis of lowest cost--either as offered or from the FSS. This course of action would be necessary to assure the Corps that the proposal selected represents the best deal to the Government.

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The Corps has informally advised that Interdata delivered the equipment on December 18, 1975, and that testing of the equipment commenced thereafter. In any event, since the Corps acted properly, the protest is denied.

  
Deputy Comptroller General  
of the United States