

DECISION



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

FILE:
B-207268

DATE: August 23, 1982

MATTER OF:
Weldun Special Machine

DIGEST:

1. GAO's function is not to reevaluate proposals or to substitute its judgment for that of evaluation team members in determining whether a particular proposal is technically acceptable. Rather, GAO's review is limited to a determination of whether proposals were evaluated reasonably, whether award was in accord with listed evaluation criteria, and/or whether the award violated applicable procurement statutes and regulations. The rule applies both to direct Federal procurements and to procurements by operators of Government-owned facilities.

2. When solicitation indicates that technical factors are accorded substantially more weight than costs, and protester has provided no information indicating that its low technical evaluation was improper, GAO will deny a protest against award of a contract to a technically superior offeror even though it is at a higher price than the protester's.

Weldun Special Machine protests the award of contracts under two solicitations issued by Mason Chamberlain, Inc., operating contractor of the Government-owned Mississippi Army Ammunition Plant in Picayune, Mississippi. The solicitations required design, manufacture, delivery and testing of (1) a final functional gauging inspection system for the M42/M46 grenade body assembly and (2) a final automatic gauging system for these grenades. We deny the protest.

Weldun's basis of protest is that it is technically capable of providing this equipment and that the contracts awarded to Marposs Gauges Corporation were at substantially higher prices than Weldun offered. Weldun states that its offer on request for proposals No. 0098 was \$403,600, compared with the awardee's \$718,612; on request for proposals No. 0099, Weldun offered \$1,465,085, compared with the awardee's \$3,870,640.

Mason Chamberlain's report in response to the protest indicates that following technical evaluation and discussions of Weldun's proposal on the first solicitation, application of a "best buy" formula resulted in a higher total score for Marposs due to its much higher technical rating. With regard to Weldun's proposal on the second solicitation, the operating contractor states that a method of inspection which Weldun proposed in response to discussions was technically unacceptable because it would not accurately measure two critical parameters of the end item, i.e., the grenades.

Weldun was provided with a copy of this report and, on June 28, 1982, our Office followed its usual procedure and asked that within 10 days after receiving it, Weldun file either written comments or a statement requesting that we consider the protest on the basis of the existing record. By letter dated July 7, Weldun submitted to us a copy of a letter to Mason Chamberlain dated February 4, in which the method of inspection rejected by Mason Chamberlain had been described; according to the protester, an incomplete version of this letter had been appended to the report. Weldun indicated that it was investigating other alleged discrepancies in the report and would respond further within a few days; however we have not received any additional written comments from Weldun.

Protests such as this one must be filed within ten working days after the basis for protest was or should have been known. 4 C.F.R. § 21.2(b)(2)(1982). Weldun's protest is arguably untimely, since the firm was advised of the award to Marposs on March 23, but did not protest until April 26. Weldun asserts,

however, that it had not been able to obtain pricing information on which to base its protest until April 14. Even if we give Weldun the benefit of the doubt as to timeliness, see General Devices, Inc., B-203711, November 23, 1981, 81-2 CPD 417, the firm has provided us with no legal basis on which to challenge the evaluation of either of its proposals.

It is not the function of our Office to reevaluate proposals or to substitute our judgment for that of evaluation team members in determining whether a particular proposal is technically acceptable. Thus, we would not attempt to evaluate the alternate method of inspection outlined in Weldun's February 4 letter. Rather, our review is limited to a determination of whether proposals were evaluated reasonably, whether award was in accord with stated evaluation criteria, and/or whether the award violated applicable procurement statutes or regulations. This is the rule both in direct Federal procurements, Blurton, Banks & Associates, Inc., B-205865, August 10, 1982, 82-2 CPD ____, and in procurements by operating contractors, who are subject to the terms of their contracts with the Government and to a standard generally known as the "Federal norm." See generally Piasecki Aircraft Corporation, B-190178, July 6, 1978, 78-2 CPD 10.

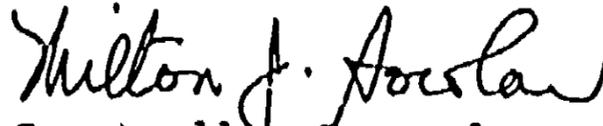
Both solicitations which Weldun responded to stated that proposals would be evaluated by using a formula composed of weighted values for technical and managerial aspects of proposals, operating and acquisition costs, and warranty. The technical aspects were approximately five times as important as management, and these two factors together were more important than acquisition costs. Least important were operating costs and warranty.

Weldun's technical proposal was rated as lower than the awardee's in one case and technically unacceptable in the other case, and the firm simply has provided no evidence to dispute these evaluations. On the basis of the record before us, therefore, we can only conclude that Mason Chamberlain's technical evaluation was reasonable and the selection of Marposs was in accord with

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listed evaluation criteria. Since there is no evidence of violations of any statute, regulation, or the Federal norm, the protest is denied.



Acting Comptroller General
of the United States