

11/17/82

DECISION



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

FILE: B-199407.3

DATE: November 17, 1982

MATTER OF: The Jonathan Corporation--Reconsideration

DIGEST:

Decision is affirmed on reconsideration in absence of any showing that earlier decision was based on errors of fact or law.

The Jonathan Corporation (Jonathan) requests reconsideration of our decision in The Jonathan Corporation, B-199407.2, September 23, 1982, 82-2 CPD 260, wherein we denied Jonathan's protest against the Navy's source selection procedure and contract award to Milcom Systems Corporation (Milcom). We found that the Navy was not shown to have erred in deciding that the technical proposals of Jonathan and Milcom were essentially equal and consequently award could be made to Milcom on the basis of lowest total evaluated cost.

Jonathan now contends that our decision failed to address Jonathan's two principal arguments: (1) that the contracting officer acted in bad faith by deceptively editing the Naval Electronic Systems Engineering Center's (NESEC) technical recommendations to make it appear that they supported and corroborated his determination; and (2) the contracting officer failed to record why the proposals were scored technically equal aside from a mere point score comparison.

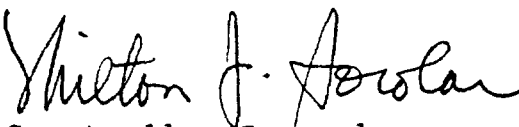
Neither contention is a sufficient basis to overturn our prior decision. In our opinion, the contracting officer did not deceptively edit the NESEC technical recommendations. The Navy reported that the contracting officer had only sought NESEC's assistance in order to see if "an award to the highest technically scored firm, Jonathan, could be justified at a price \$159,000 higher than the other apparently technically equal offeror, Milcom." We noted in our decision that NESEC never directly answered the question regarding technical equality, but instead replied that "an award under subject solicitation to either firm in line for award technically is acceptable." Jonathan's allegation of bad faith and deception is based upon the contracting officer's omission of the following unsolicited NESEC comment in its request for a

post-negotiation business clearance from higher headquarters: "It is recommended that award be based on a total score of technical and pricing points combined." Since the above quote is not responsive to the issue of technical equality (NESEC's area of expertise) we find neither bad faith nor deception in its omission from the request for post-negotiation business clearance. Moreover, we note that although the contracting officer did not specifically refer to the above quote in his request, he did include the entire document in which the quote appeared as an attachment to the request.

Likewise, we see no merit in the contention that the contracting officer was obligated to record why the proposals were scored technically equal aside from a mere point score comparison. Essentially, the contractor is merely providing a group of technicians of a readily ascertainable skill level ready to perform specialized technical support tasks on an as required basis. The main variables appear to be the quality and quantity of the offered manpower and the certainty that the offeror can in fact provide what it offers. We discussed at length the Navy's review of the Personnel Qualifications evaluation factor and the fact that even if Jonathan's allegations concerning irregularities in Milcom's proposal were correct and the scoring adjusted to accommodate them, the result would be the same. We believe that the subject matter of the procurement is such that numerical scoring, without further documentation, is sufficient to record the Navy's assessment of the contending proposals' technical merit.

Since Jonathan has made no showing that our denial of its protest was erroneous, we see no reason to consider its arguments further. Virginia-Maryland Associates, Inc.--
Reconsideration, B-191252, July 7, 1978, 78-2 CPD 19.

Accordingly, our prior decision is affirmed.

for 
Comptroller General
of the United States