

**DECISION**

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

**FILE:** B-209366

**DATE:** June 6, 1983

**MATTER OF:** Intox Laboratories

**DIGEST:**

Contract may be awarded without discussions where there is adequate competition and offerors are advised that contract might be awarded on basis of initial proposals. Award of contracts to higher technically ranked fixed-price offerors, rather than lower ranked cost-type offeror, is reasonable because fixed-price contracts are preferable to cost-type.

Intox Laboratories (Intox) has filed a protest against the award of multiple contracts by the Center for Disease Control (CDC) of the Department of Health and Human Services under request for proposals (RFP) No. 220-82-2525(P). We deny the protest.

This solicitation requested proposals for the screening of priority chemicals for potential reproductive hazards and advised offerors that CDC contemplated the award of multiple, fixed-price contracts. The solicitation also stated that CDC reserved the right to make award on the basis of initial proposals. Cost and technical considerations were equally weighted.

CDC found 15 of the 16 proposals received to be within the competitive range of technically acceptable, with adjectival ratings ranging from "acceptable-adequate" to "acceptable-outstanding" and technical evaluation point scores ranging from 71.3 to 86, out of 100. Eight of the 15 acceptable firms, including Intox, submitted cost-plus-fixed-fee proposals, which apparently were evaluated to establish the competitive range.

Intox received a score of 76.7 and a rating of "acceptable-good"; Intox proposed to perform on a cost-plus-fixed-fee basis for \$74,241. CDC awarded fixed-price contracts on the basis of initial proposals to two higher

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ranked offerors, Hazleton Raltech, Inc. (score of 81.7, "acceptable-outstanding"), and Borrison Laboratories, Inc. (83.7, "acceptable-outstanding"), in the amount of \$76,745 and \$81,595, respectively. CDC states that the difference in technical superiority was worth the difference in price and eight offerors were ranked higher technically than Intox.

Intox contends that since its proposal received a "passing grade," there was no basis to exclude it from further consideration and that if technical and cost factors were equally weighted, there was no justification for the award of a contract to a higher priced offeror. Intox does not contest CDC's evaluation of its technical proposal.

We have held that a contract may be awarded without discussions where there is adequate competition to ensure that the contract is awarded at a fair and reasonable price, provided that the solicitation advises offerors of the possibility that the contract might be awarded on the basis of initial proposals. Tiernay Manufacturing Company, B-209035, December 20, 1982, 82-2 CPD 552; Todd Logistics, Inc., B-203808, August 19, 1982, 82-2 CPD 157. This solicitation specifically reserved the right to make award on the basis of initial proposals. We also have held that selection officials may make tradeoffs among evaluation factors so long as the tradeoffs are reasonable and consistent with the evaluation criteria. Management Services, Inc., B-206364, August 23, 1982, 82-2 CPD 264. Finally, fixed-price contracts are more desirable than cost-type contracts because the ultimate cost to the Government of the latter type of contract is inherently uncertain. See Marine Management Systems, Inc., B-185860, September 14, 1976, 76-2 CPD 241.

CDC selected two offerors whose technical proposals were ranked superior to Intox's proposal and which offered to perform on a more desirable fixed-price basis. We find no basis to question this action.

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The protest is denied.

for *Milton J. Fowler*  
Comptroller General  
of the United States