

*Cooper*



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Amtec Corporation  
**File:** B-240647  
**Date:** December 12, 1990

W.P. Albritton, Jr., for the protester.  
Louis B. Weiner for Delta Research, Inc., an interested party.  
Herbert F. Kelley, Jr., Esq., Department of the Army, for the agency.  
Sabina K. Cooper, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Contracting agency held adequate discussions where questions posed to offeror in successive rounds of written discussions were sufficient to lead the offeror into those areas of its proposal about which the agency was concerned.
2. In cost-reimbursement contract, contracting agency reasonably increased offeror's proposed costs to reflect additional travel costs where agency reasonably concluded that due to the nature of the contract effort, the advance planning necessary to take advantage of the lower cost, discount travel fares the offeror proposed might not be feasible.
3. Contracting agency's evaluation of offeror's technical proposal for flight test analysis services is not reasonable where, in light of the detailed proposal submissions from the offeror and the lack of detail in the agency's evaluation documents, the record does not support the agency's generalized conclusion that the offeror's proposal was poorly organized and lacked technical detail.

### DECISION

Amtec Corporation protests the award of a contract to Delta Research, Inc., under request for proposals (RFP) No. DASG60-90-R-0016, issued by the Department of the Army, Strategic Defense Command, for flight test analysis. Amtec argues that the Army failed to conduct meaningful discussions; improperly applied the evaluation factors in the RFP; performed a

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defective cost analysis; and did not conduct the competition in good faith.

We deny the protest in part and sustain it in part.

The RFP, issued on January 26, 1990, as a total small business set-aside, called for a cost-plus-fixed-fee, level of effort contract for detailed technical studies of specific defensive missile systems and certain analyses associated with the flight test program over a period of 39 months. Proposals were to be evaluated on the basis of three listed criteria--technical, management, and cost, in declining order of importance. For the technical area, two subfactors are listed, technical approach and qualifications of personnel; for the management area, the subfactors were organization structure and applicable experience. The RFP stated that the technical area is significantly more important than the management area.

The solicitation noted that cost realism was a very important consideration in the evaluation of the technical and management areas and that proposals would be evaluated to develop an estimate of the most probable cost to the government of each offer. The RFP further provided:

"The Government will select for award the proposal which is most advantageous to the Government considering the technical, management and cost areas. The Government may select for award the offeror whose total evaluated probable cost is not necessarily the lowest, but whose technical and management proposals are significantly more advantageous to the Government so as to justify the payment of additional costs. Conversely, the Government may select for award the offeror whose total evaluated probable cost is the lowest, when other proposals are not sufficiently more advantageous so as to justify the payment of additional costs."

The Army received two proposals in response to the RFP, from Amtec and Delta. Both proposals were determined to be in the competitive range. Negotiations consisted of three rounds of written discussions and two rounds of oral discussions, each resulting in the submission of written responses by both offerors. Best and final offers (BAFO) were submitted by the June 5 closing date. Amtec's proposal had the lower evaluated cost; Delta was found to be the technically superior offeror, receiving an overall rating of exceptional compared to Amtec's rating of marginal. The Army decided to make award to Delta based on its technical superiority and informed Amtec of its intention on July 27. Amtec filed a protest in our Office

challenging the award on August 2. The Army has not awarded the contract pending our decision on the protest.

#### PROPOSED COSTS

With regard to its proposed costs, Amtec argues that the agency failed to conduct meaningful discussions with it and improperly conducted the cost realism analysis on Amtec's proposal. We see no basis to object to the Army's actions on either of these grounds.

#### Discussions

Our review of the record shows that the Army consistently attempted to lead Amtec into further clarifying its proposal with respect to those areas about which the Army was concerned, giving Amtec ample notice of perceived discrepancies and asking appropriate follow-up questions.

At issue are Amtec's proposed travel costs. Section L-19(c) of the RFP set out estimated travel requirements, including the number of trips, number of persons, and number of days per trip. In performing its cost realism analysis on Amtec's proposal, the Army ultimately increased the proposed travel costs by approximately \$200,000 based on its conclusion that the proposed costs were too low. Amtec's proposed costs were based on the use of discount fares which, the Army concluded, are subject to certain availability restrictions which made them not feasible to use for the type of program involved, which might, for example, require travel on short notice. Amtec also proposed combining certain trips to lower costs, an approach which the Army also regarded as potentially not feasible given the nature of the program.

Amtec's initial proposal contained only a general discussion of travel costs. In the first set of written discussions, the Army asked Amtec to "[p]rovide visibility of travel cost computations." In response, Amtec furnished a table showing total travel costs by destination, and stated generally that the proposed costs were based on the travel estimates in the RFP.

In the second set of discussions, the Army posed the following question:

"It was previously requested that Amtec provide visibility of travel cost computations; these costs were identified by location but without visibility of compliance with the quantity of trips as specified in the RFP. AMTEC states that travel cost has been estimated by the information provided in Section L-19 of the RFP; please provide the

specific number of proposed trips to each location and the associated costs."

In response, Amtec furnished a table of proposed travel costs showing the cost per trip by destination without further detail on how the fares were calculated.

In the third set of written discussions, the Army raised the travel costs issue again, posing the following question:

"AMTEC's response to Cost Issue 3 (on page 18 of response to second set of discussion items) does not reflect the quantity of trips requested in the RFP; proposed travel costs should be based on the requirements of the RFP. provide documentation for proposed airfare rates." (Emphasis added.)

In its BAFO, Amtec responded to this question by providing information from its travel agent regarding the airfare rates; that information indicated that many of the rates were based on discounted fares available only if certain conditions and restrictions such as advance reservation time and length of stay were met.

In order to conduct meaningful discussions, an agency must impart enough information to the offeror to afford it a fair and reasonable opportunity in the context of the procurement to identify and correct deficiencies in its proposal. Minigraph, Inc., B-237873.2, May 14, 1990, 90-1 CPD ¶ 470. Here, we find that the Army's discussions on the travel cost issue were adequate; the Army clearly and repeatedly led Amtec into the area about which it was concerned, asking three times for additional support for Amtec's proposed travel costs.

Contrary to Amtec's contention, the Army was not required to specifically advise Amtec that the Army was concerned about the use of discounted fares. First, the Army did not know until Amtec submitted its BAFO that discount fares were being proposed; Amtec had not so advised the Army in its initial proposal or responses to the first two rounds of questions on this issue. Second, it should have been clear to Amtec that, given the nature of the contract effort, advance planning, length of stay restrictions, and combined trip planning might not be feasible; in this regard, section L-21 of the RFP specifically states that "there are many instances that require immediate technical support based on changing requirements, new programs, or high-level Government inquiries." Finally, there is nothing inherently improper in an agency's use of general statements in discussions, as long as they are designed to guide an offeror to those portions of its proposal that require clarification or modification. Id.

The Army's questions in this case clearly satisfied this standard.

#### Cost Realism Analysis

Amtec also challenges the agency's cost realism analysis to the extent that the Army increased Amtec's proposed costs by approximately \$200,000 to account for increased travel costs.

When a cost reimbursement contract is to be awarded, the offerors' estimated cost of contract performance and their proposed fees should not be considered controlling since the estimates may not provide valid indications of final actual costs which the government is required, within certain limits, to pay. The government's evaluation of estimated costs thus should be aimed at determining the extent to which the offerors' estimates represent what the contract should cost, assuming reasonable economy and efficiency. This determination in essence involves an informed judgment of what costs actually would be incurred by acceptance of a particular proposal. Science Applications Int'l Corp., B-232548, B-232548.2, Jan. 22, 1989, 89-1 CPD ¶ 52. Because the contracting agency clearly is in the best position to make this cost realism determination, our review is limited to a determination of whether the agency's cost realism analysis is reasonably based and not arbitrary. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325.

Here, in calculating the probable cost of Amtec's proposal, the Army accepted Amtec's direct labor rates, overhead and fringe benefit rates, subcontractor rates, general and administrative rate, and fixed-fee rate. The Army, however, increased Amtec's proposed travel costs by approximately \$200,000 to conform to the government estimate because of Amtec's proposed use of discount fares. While Amtec contends that the travel requirements can be accommodated within the various restrictions imposed in connection with discount fares, we find that the Army reasonably concluded that the restrictions involved with using discount fares and combined trips might not be feasible given the dynamic nature of the contract effort. Since the purpose of the cost realism analysis is to calculate the probable cost of the contract, we see no basis to object to the Army's decision to increase Amtec's proposed travel costs based on its concerns about the feasibility of using the travel arrangements that Amtec proposed.

## EVALUATION OF TECHNICAL/MANAGEMENT PROPOSAL

### Discussions

As with the cost area, we find that the discussions held in the technical and management areas of the proposal were adequate.

The RFP described the technical factor as significantly more important than the management factor. Under the technical factor, the agency primarily was concerned that Amtec's proposal lacked depth and detail in the area of technical approach. Throughout the three rounds of written discussions, the agency posed numerous detailed questions to Amtec concerning its technical proposal. For example, in the second round of discussions, the Army posed the following question:

"Request AMTEC provide a more in-depth technical discussion of his approach to the areas of 2.0 Flight Test Analysis and 3.0 Missile Analysis (except for 3.3 Guidance and Control) to include examples of analysis to be performed. Special attention should be given to the subparagraphs corresponding to the following SOW paragraphs:

- 3.1.1 Missile and Target Trajectories
- 3.1.2 Test Range Configuration Analysis
- 3.1.3 Flight Instrumentation
- 3.3.2.1 Infrared Seeker
- 3.2.5 Rocket Motor."

While Amtec objects to the degree of specificity of this question, we find that it clearly was sufficient to lead Amtec into those areas of its technical proposal about which the Army was concerned. In fact, given that the Army's concern was that Amtec's initial proposal lacked sufficient detail in these areas, it would not have been possible to formulate a more specific question; rather, the question was intended to elicit further information from Amtec, which the Army concluded the firm had not provided in the initial proposal.

### Evaluation

Amtec contends that the Army improperly applied the evaluation factors in the solicitation. Where an agency evaluation is challenged, we will examine that evaluation to ensure that it was reasonable and consistent with the evaluation criteria. Damon Corp., B-232721, Feb. 3, 1989, 89-1 CPD ¶ 113. In this case, we find that certain aspects of the evaluation which Amtec challenges were performed properly by the Army; however, we also find that the record does not support the

Army's conclusion that Amtec's proposal was marginal under the technical factor, the most important area in the evaluation scheme.

One illustration of the areas of the technical evaluation which we find were properly performed is the agency's conclusion regarding the management portion of Amtec's proposal. Amtec was rated acceptable overall in the management area based on its acceptable rating in the two subfactors, organization structure and applicable experience. With regard to organization structure, the Army noted that Amtec proposed placing the flight test analysis function under the "System Analysis and Simulation Division" of the company. In the Army's view, this structure would not "effectively utilize the expertise residing in AMTEC's 'Weapon Systems Test' and 'Flight Test' divisions that has direct applicability" to the contract effort. In response, Amtec argues that its proposal showed that the program manager's independent authority "to call on other Departments for support is clearly described in our original management proposal."

The Army's remarks can be considered as identifying a "deficiency" in Amtec's proposal only to the extent that they explain why the Army did not give Amtec a rating higher than acceptable in this area; Amtec has not shown that it in fact merited a higher rating in this category. Amtec's contention that its proposal explained the autonomy which the program manager would have to call on resources from other departments simply does not refute the Army's concern that it was not clear whether or how the technical expertise outside the department in which the contract function was located would be used in the contract effort.

With regard to the technical factor, we are not persuaded that the Army's evaluation of Amtec's proposal as marginal in the technical area was reasonable. The technical area had two subfactors, technical approach and personnel qualifications. The Army rated Amtec as marginal with regard to technical approach, and acceptable with regard to personnel qualifications; overall, Amtec was rated as marginal in the technical area. The Army's concerns supporting its finding that the proposal was marginal in the technical approach subfactor were that the proposal was poorly organized; significantly lacking in technical detail; and lacked an orderly approach to the analysis. The agency concluded that while Amtec had provided some additional information in response to the discussion questions, it was not sufficient to cure the underlying problem of lack of in-depth analysis.

We have reviewed the entire record in this case, including the protester's proposal, its responses to the discussions

questions and its BAFO, as well as the preliminary and final reports of the agency's Proposal Evaluation Team, the source selection decision and the worksheets of the evaluators. All of Amtec's submissions contain lengthy discussions of each area of the statement of work and Amtec supplemented its initial discussion of the technical issues during discussions. For example, in response to the discussion question quoted above requesting additional information on various technical issues, Amtec responded with a detailed 12-page narrative and examples of the analyses it would perform under the contract, including formulas and graphs to illustrate its points.

The Army recognizes that Amtec "made some improvement in technical depth in response to questions." Nevertheless, other than its general statements that the Amtec proposal lacks sufficient depth in the technical area and should have been better organized, there is no discussion in any of the evaluation documents of precisely why the Army reached its conclusion that the proposal was marginal in the technical area.

Federal Acquisition Regulation § 15.612(d)(2) requires that the documentation supporting selection decisions show the relative differences among proposals; their strengths, weaknesses and risks; and the basis and reasons for the decisions. This required explanation provides protesters and this Office a basis upon which to judge the reasonableness of the agency's decision and, ultimately, its compliance with the procurement statutes and regulations. Details of the reasons for the selection decision are particularly important where the agency is procuring highly complex, technical goods or services as in this case. We have reviewed Amtec's submissions under the RFP, and, given the detail and apparent organization of the technical discussion in them, and the corresponding lack of any detailed explanation from the Army, either in the evaluation documents or in the report on the protest, of its conclusion that Amtec's technical proposal was poorly organized and lacking in technical detail, we find that the record does not support the Army's rating of Amtec as marginal in the technical area.<sup>1/</sup>

The Army's findings in this regard relate to only one of the two subfactors under the technical factor. Nevertheless, we cannot say that Amtec was not prejudiced by the Army's evaluation. First, the technical factor was the most

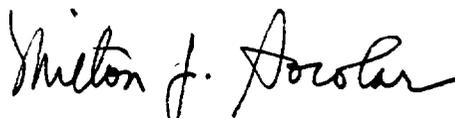
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<sup>1/</sup> Amtec also argues that the failure to select it for award demonstrates that the evaluation was not conducted in good faith. There is no indication in the record that the evaluation of any part of the procurement was conducted in bad faith.

important one in the evaluation, described in the RFP as "significantly more important" than the management factor. Second, although there were two subfactors under the technical factor, the agency's conclusion that Amtec was marginal with regard to the first (technical approach) apparently was determinative; although it had been rated acceptable in the second, equally important subfactor (qualifications of personnel), Amtec was rated marginal overall on the technical factor. Third, Amtec's rating of marginal in the technical area apparently greatly influenced its ultimate rating of marginal in all categories since, while it was rated acceptable in one of the subfactors under the technical factor and in both of the subfactors under the management factor, it received an overall rating of marginal. Since the award decision was based on the conclusion that Delta's superior technical proposal justified its higher cost, it is possible that an increase in Amtec's marginal rating would affect the cost/technical tradeoff which formed the basis for the decision to award to Delta. See URS Int'l Inc., and Fischer Eng'g & Maintenance Co., Inc. et al., B-232500; B-232500.2, Jan. 10, 1989, 89-1 CPD ¶ 21.

Given our finding that the Army's rating of Amtec as marginal in the technical area is not supported by the record, we recommend that the Army reconsider its evaluation of Amtec's proposal and its selection decision in light of the conclusions reached in our decision. In addition, Amtec is entitled to recover the costs of filing and pursuing the protest. Bid Protest Regulations, 4 C.F.R. § 21.6(d) (1) (1990).

The protest is denied in part and sustained in part.

*for*   
Comptroller General  
of the United States