



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Dynamic System Technologies, Inc.--  
Reconsideration

**File:** B-253957.2

**Date:** February 10, 1994

Wadi Rahim for the protester,  
Craig E. Hodge, Esq., and Carol Rosenbaum, Esq., Department  
of the Army, U.S. Army Materiel Command, for the agency.  
Tania L. Calhoun, Esq., and Ralph O. White, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

Request for reconsideration is denied where request  
essentially raises the same matters on reconsideration as  
were raised in the original protest; protester has not  
demonstrated that decision was based on error of fact or  
law.

### DECISION

Dynamic System Technologies, Inc. (DSTI) requests  
reconsideration of our decision in Dynamic Sys. Techs.,  
Inc., B-253957, Sept. 13, 1993, 93-2 CPD ¶ 158, in which  
we denied its protest of the Department of the Army's  
evaluation of its proposal submitted under request for  
proposals (RFP) No. DAAJ09-92-R-0369, and resulting award  
of a contract to Camber Corporation for programmatic and  
technical support (PATS) of the Army's Aviation and Troop  
Command.

We deny the request for reconsideration.

### BACKGROUND

The PATS acquisition strategy provided for one solicitation  
containing a separate statement of work (SOW) for each  
of three service areas: technical, logistics, and  
programmatic. Three awards could be made under each of

the SOWs: one to a section 8(a) firm,<sup>1</sup> one to a small business, and one unrestricted award. At issue here is the section 8(a) award under the technical SOW.

Award was to be made to the offeror whose proposal was determined to provide the optimum approach for attainment of the objectives of the PATS program considering four evaluation factors: technical, management, cost, and past performance. Of these, the technical factor was significantly more important than the management factor, which was significantly more important than the cost and past performance factors, which were approximately equal. Both the technical and management factors contained various subfactors.

Three section 8(a) firms submitted proposals to provide the technical services. Following discussions, best and final offers (BAFO) were submitted and evaluated by the Source Selection Evaluation Board (SSEB), with the results as follows:

	<u>Westar</u>	<u>Camber</u>	<u>DSTI</u>
Technical (maximum 50)	44.08	39.76	38.18
Management (maximum 30)	<u>26.05</u>	<u>24.42</u>	<u>18.25</u>
Total Merit Score	70.13	64.18	56.43
Probable Cost <sup>2</sup>	6-1	4-1	5-2
Performance Risk	Low	Low	Moderate

The Source Selection Authority determined that Camber's proposal provided the best value for the section 8(a) award of the technical services, and made award to Camber on May 21.<sup>3</sup> DSTI protested the award, challenging various aspects of the evaluation of its proposal. As relevant to its reconsideration request, the protester argued that the

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<sup>1</sup>Section 8(a) of the Small Business Act authorizes the Small Business Administration to enter into contracts with government agencies and to arrange for performance through subcontracts with socially and economically disadvantaged small business concerns.

<sup>2</sup>A most probable cost was established for each scenario proposed by each contractor, then compared to the lowest most probable cost for the scenarios.

<sup>3</sup>Westar, which had competed in all three technical contract areas, was awarded the small business portion of the technical support requirement. See System Dynamics Int'l, Inc., B-253957.3, Nov. 8, 1993, 93-2 CPD ¶ 274.

SSEB improperly downgraded its proposal under the management evaluation factor.'

The SSEB downgraded DSTI's proposal because it believed that a discrepancy introduced in DSTI's BAFO created an ambiguity that prevented it from ascertaining whether DSTI's BAFO proposed a program manager and, if so, whether the proposed program manager was the individual identified in DSTI's initial proposal. The management volume of DSTI's initial proposal listed Ron Williams as its program manager, and DSTI's resume volume included a resume for Mr. Williams which clearly identified him as the proposed program manager. However, in its BAFO, DSTI submitted, as a change page, a revised resume for Mr. Williams which clearly identified him as the proposed senior logistician. No other information was included in the BAFO to explain this discrepancy between the two resumes.

In our decision, we found that, at a minimum, the discrepancy between Mr. Williams's resumes introduced an ambiguity concerning his role as the program manager, especially since DSTI did not provide the Army with any explanation of why the revised resume proposed Mr. Williams as the senior logistician, or how that change affected his role as the program manager. While DSTI asserted that the agency should have been able to discern that the revised resume was intended to add Mr. Williams as the senior logistician, in addition to his primary role as the program manager, we found the agency's evaluation reasonable, in light of the solicitation's statement that the agency would evaluate proposals on the basis of, among other things, the clear identification of the program manager. As we stated in our decision, since an agency is not required to reopen discussions after the submission of BAFOs to afford an offeror an opportunity to demonstrate compliance with the solicitation's requirements, an offeror is obligated, when introducing changes in its BAFO, to demonstrate how the revised offer will satisfy those requirements. See Purvis Sys., Inc., 71 Comp. Gen. 203 (1992), 92-1 CPD ¶ 132.

The SSEB also downgraded DSTI's proposal because it did not indicate that the program manager had the authority to make decisions that were binding on the contractor without first securing approval from top management. Specifically, while the proposal stated that Mr. Williams, the program manager, would have overall authority to manage the resources for the contract, it also stated that the program manager would

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'DSTI also alleged that the SSEB improperly evaluated its proposal under the technical evaluation factor. We found that this allegation was without merit; DSTI does not request reconsideration of this aspect of our decision.

report directly to DSTI's president. Further, an exhibit within the proposal showed that the line of management authority over the contract would run from DSTI's president to the program manager. The issue of the program manager's authority was also put into question because its references to such authority appeared to be contingent upon the program manager being Mr. Williams; as discussed above, Mr. Williams's status as the program manager was put into question by the submission of the revised resume in DSTI's BAFO. As a result, we stated, in our decision, that we could not conclude that the agency unreasonably evaluated DSTI's proposal in this regard.

#### RECONSIDERATION REQUEST

The protester essentially reiterates the arguments it raised during the pendency of its protest concerning these issues. Specifically, DSTI asserts that Mr. Williams's revised resume was not intended to replace his earlier resume, and that the proposal, in DSTI's view, clearly provided that Mr. Williams would serve as both the senior logistician and program manager. According to DSTI, this was clear because Mr. Williams remained named as the program manager in the technical and management volumes of the proposal. DSTI also asserts that its proposal clearly granted the program manager all the authority on the contract.

Under our Bid Protest Regulations, to obtain reconsideration the requesting party must show that our prior decision may contain either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1993). DSTI's repetition of arguments made during our consideration of its original protest and mere disagreement with our decision does not meet this standard. R.E. Scherrer, Inc.--  
Recor., B-231101.5, Sept. 21, 1988, 88-2 CPD ¶ 274.

As explained in our decision, our Office does not evaluate proposals de novo; our review of an allegedly improper evaluation is limited to determining whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria. Centro Mgmt., Inc., B-249411.2, Dec. 2, 1992, 92-2 CPD ¶ 387.

With regard to the issue of Mr. Williams's resumes, we concluded that in view of the fact that the second resume proposed Mr. Williams under a different labor category than the first resume, with absolutely no explanation, it was reasonable for the SSEB to question the role of Mr. Williams vis-a-vis the labor categories of program manager and senior logistician. DSTI's statement, in its request for reconsideration, underscores the ambiguity that troubled the agency. In DSTI's BAFO, while Mr. Williams's name remained

as the program manager in the technical and management volumes, the revised resume indicated not that Mr. Williams was being proposed as both the program manager and the senior logistician, but as the senior logistician alone.

Without some clear indication that Mr. Williams was being proposed in both categories, we believe that the revised resume created an ambiguity that resulted in a proper downgrading of its proposal. An agency is entitled to evaluate an otherwise unchanged technical proposal on the basis of changes or ambiguities introduced in a BAFO. See Cygna Project Mgmt., B-236839, Jan. 5, 1990, 90-1 CPD ¶ 21. Although DSTI explained in its protest the reason for the revised resume submitted in its BAFO,<sup>5</sup> DSTI should have provided that explanation in its BAFO, not after losing the competition. By failing to explain its BAFO, DSTI assumed the risk that its changes might raise questions it would not have an opportunity to answer. See id.; Comarco, Inc., B-225504; B-225504.2, Mar. 18, 1987, 87-1 CPD ¶ 305.<sup>6</sup>

As for the downgrading of DSTI's proposal based upon the extent of the program manager's authority, DSTI continues to assert that the management volume of its proposal clearly delineated the authority vested in the program manager. DSTI contends that, although its proposal stated that the program manager was accountable to the president, it did not indicate that the program manager shared his authority with the president or that the program manager's authority was diluted by this reporting arrangement.

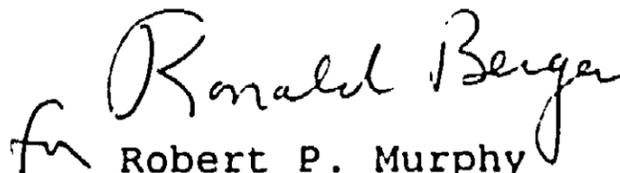
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<sup>5</sup>DSTI stated that, after the initial evaluation of its proposal, the agency instructed it to propose a senior logistician because it had not done so in its initial proposal; the revised resume was submitted in response to this instruction.

<sup>6</sup>In its request for reconsideration, DSTI also asserts that the Army unreasonably assumed that Mr. Williams could not work in two capacities; DSTI points to other procurements in which individuals have been bid in dual positions. The record does not show that the Army would not have accepted a proposal that clearly indicated Mr. Williams was being proposed under two labor categories, but, rather, that the Army could not determine, from the documents at hand, for which position(s) Mr. Williams was being proposed. Further, each procurement is a separate transaction and agency action under one procurement does not affect the propriety of the agency's action under a different procurement. See Anderson Hickey Co., B-250045.3, July 13, 1993, 93-2 CPD ¶ 15.

However, as stated above, an exhibit within DSTI's proposal showed the management authority over the contract coming from DSTI's president to the program manager, in addition to the other assertions of authority. Further, as we stated in our decision, the issue of the program manager's authority was put into question because DSTI's references to such authority appeared to apply only if Mr. Williams served as program manager; we have already concluded that the agency was reasonably uncertain about whether DSTI's BAFO continued to propose Mr. Williams in that capacity. Finally, even if DSTI were correct in asserting that its management proposal sufficiently indicated that the program manager was granted binding authority, the record shows that, at most, DSTI's proposal was downgraded by 4 points for failing to indicate the required authority of the program manager. Since the difference between DSTI's score and Camber's score under the management evaluation factor is 6.17 points, DSTI would not have been prejudiced if the SSEB had improperly downgraded its proposal under the management factor, as the addition of four points would not have put DSTI in line for award given the presence of a higher-rated, lower-priced offeror. See United Int'l Eng'g, Inc. et al., 71 Comp. Gen. 177 (1992), 92-1 CPD ¶ 122.

The request for reconsideration is denied.

  
Robert P. Murphy  
Acting General Counsel