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Kozlakowski  
P.L.I.

**DECISION**



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

**FILE:** B-188851 **DATE:** November 16, 1977  
**MATTER OF:** AAA Engineering and Drafting, Inc.

**DIGEST:**

Determination of technical acceptability of proposals is within discretion of procuring agency and will not be disturbed absent clear showing that determination was unreasonable. Rebuttal to agency's technical determination is in general argumentative terms and does not establish that technical evaluation was without reasonable basis.

AAA Engineering and Drafting, Inc. (AAA), has protested the determination that its proposal was technically unacceptable under request for proposals (RFP) F29601-77-R-0027, issued by the Department of the Air Force, Contract Management Division, Kirtland Air Force Base, New Mexico. The solicitation was for the procurement of an estimated 8,400 pages of instructions for nuclear weapon loading, delivery, and transport Technical Orders.

The proposal of the protester was determined to be technically unacceptable on the grounds that the proposal described an unacceptable technical approach to contract performance and showed a lack of ability to meet contract schedules. The protester alleges that the rejection of its proposal was arbitrary, being based upon an unreasonable and overly rigid technical evaluation.

The instructions in the RFP advised offerors that the Management/Technical Proposal would be the most important consideration in the award of a contract. The criteria for evaluation reflected this emphasis by stating:

"The following categories (A, B, C, D) and the individual factors within each category, are listed in relative order of importance with the most important first. Any one overall category rating of UNACCEPTABLE may eliminate the proposal

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from further consideration, regardless of the overall ratings in any other category. An overall category rating of UNACCEPTABLE may result from a rating of UNSATISFACTORY for any one individual factor within the category or from two or more POOR ratings for individual factors within the category."

The categories and respective factors were as follows:

"a. Technical Approach

- (1) Compliance with Requirements
- (2) Understanding of the Problem
- (3) Soundness of Approach

"b. Qualifications Based on USAF Experience

- (1) Technical Past Performance
- (2) Quality of Product or Service
- (3) Ability to Meet Schedules
- (4) Attitude Toward Correcting Faults

"c. Qualifications Based On Offeror Data

- (1) Technical Organization
- (2) Specific Experience
- (3) Special Technical Equipment and Facilities

"d. Cost Proposal

- (1) Realism of Cost or Price Proposals"

On April 6, 1977, AAA was sent a letter advising that "considering technical factors" its proposal was not technically acceptable and not considered within the competitive range. AAA protested the evaluation process to this Office on April 14, 1977.

The determination of whether a proposal is technically acceptable and within the competitive range is a matter of administrative discretion which will not be disturbed absent a clear showing that the determination was unreasonable. 52 Comp. Gen. 718, 724 (1973). From the record before this Office, we cannot conclude that there was an abuse of such discretion by the Air Force.

All proposals were independently evaluated by each member of a three-man panel in accordance with the evaluation criteria set forth in the RFP. AAA's proposal was determined to be unacceptable based on its Technical Approach. The following ratings were assigned under the technical category:

<u>FACTOR</u>	<u>RATING</u>
1. Compliance with requirements	Poor
2. Understanding of the Problem	Unsatisfactory
3. Soundness of Approach	Poor

The contracting officer determined that in order to be brought to an acceptable level, a complete rewrite of the proposal would be required. Accordingly, AAA was determined outside of the competitive range and discussions were not conducted with AAA. By letter dated April 6, 1977, the contracting officer advised AAA of some of the technical considerations which resulted in its exclusion from the competitive range. In response to the protest, the contracting officer furnished our Office a more detailed explanation of AAA's technical unacceptability. A copy of this report was furnished to AAA and a rebuttal by AAA submitted to our Office. The protester's rebuttal is stated in general argumentative terms and does not address all areas of unacceptability. Although we have examined the submissions of both the Air Force and AAA, for the reasons stated below we believe it would serve no useful purpose to restate the points of disagreement.

While AAA disagrees with the Air Force's evaluation of proposals, it is not for our Office to make that evaluation. TGI Construction Corporation, et al., 54 Comp. Gen. 775 (1975), 75-1 CPD 167. The overall determination of the relative merits of proposals is the responsibility of the contracting agency, since it must bear the major burden for any difficulties incurred by reason of a defective evaluation. Training Corporation of America, B-181539, December 13, 1974, 74-2 CPD 337. Accordingly, we have consistently held that procuring officials enjoy "a reasonable range of discretion in the

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evaluation of proposals and in the determination of which offer or proposal is to be accepted for award," and that such determinations are entitled to great weight and must not be disturbed unless shown to be arbitrary or in violation of the procurement statutes and regulations. PRC Computer Center, Inc., et al., 55 Comp. Gen. 60 (1975), 75-2 CPD 35; METIS Corporation, 54 Comp. Gen. 612, 614-5 (1975), 75-1 CPD 44; Riggins & Williamson Machine Company, Inc., 54 Comp. Gen. 783 (1975), 75-1 CPD 168; B-178220, December 10, 1973. For the foregoing reasons, we cannot disagree with the conclusion that the AAA proposal was not technically acceptable. Therefore, it is not necessary to consider the other bases which were also considered as reasons for rejection.

Finally, where, as here, a proposal has been found to be so technically inferior that meaningful negotiations are precluded, it may be eliminated from the competitive range without regard to cost. Systems Analysis and Research Corporation, B-187397, February 4, 1977, 77-1 CPD 90.

For the above reasons, the protest of AAA is denied.

*R. F. Ketter*  
Deputy Comptroller General  
of the United States