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DECISION



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

FILE: B-199741.3

DATE: October 26, 1981

MATTER OF: Lockheed Corporation--Reconsideration

DIGEST:

GAO finds no merit in protester's contention that narrative analysis portion of the agency's technical evaluation report to the Source Selection Official contradicts conclusion in prior protest decision that it was not unreasonable for the Source Selection Official to make award to second-ranked offeror in order to take advantage of that offeror's lower cost. The narrative analysis in the report clearly showed that second-ranked offeror, like protester, would have little difficulty in performing the contract.

Lockheed Corporation (Lockheed) requests reconsideration of our decision in Lockheed Corporation, B-199741.2, July 31, 1981, 81-2 CPD 71, denying its protest concerning request for proposals (RFP) No. DOT-FR-936500 issued by the Department of Transportation (DOT), Federal Railroad Administration.

Lockheed had contended that DOT did not adhere to the stated RFP evaluation criteria in making an award to an offeror whose proposal had not received the highest technical score and whose technical/cost relationship was not the most advantageous to the Government. Lockheed had emphasized that, under the RFP's evaluation scheme, cost was a less significant factor than the technical proposal score. According to Lockheed, had DOT's Source Selection Official made an award on the RFP's criteria of (1) technical acceptability and (2) technical/cost relationship most advantageous to the Government, Lockheed would have been the successful offeror. Lockheed had asserted that this should have been the proper conclusion because its final technical score of 70.51 out of 100 was nearly 15 percent higher than Boeing Services International Inc.'s (Boeing) score of 61.13 and there was only about 2.9 percent difference in evaluated costs (excluding fee) between the two companies.

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We found that DOT's technical evaluation board had stated that either Lockheed or Boeing would be able to perform the contract "with little difficulty" and paragraph 21 of the RFP had provided that award would not necessarily be made for capabilities that would appear to exceed those needed for the successful performance of the work. Therefore, we concluded that it had not been unreasonable for the Source Selection Official to make the award to Boeing to take advantage of the lower cost despite the approximately 15-percent higher point score Lockheed had on the technical evaluation. In this regard, we noted that, where an agency regards proposals as essentially equal technically, cost or price may become the determinative consideration in making an award notwithstanding the fact that in the overall scheme cost had been of less importance than other evaluation criteria.

Lockheed asserts that the finding in our prior decision that the proposals of it and Boeing were regarded by DOT as being of "essential equality" was not supported by the record and was never the position of DOT. In support of this assertion, Lockheed argues that the narrative analysis portion of the report of DOT's technical evaluation board contradicts our finding of equality. Lockheed claims that in the discussion of the board's report in our prior decision we omitted the fact that it was ranked first by the board in the narrative analysis. Consequently, Lockheed believes that the report clearly indicated it was both quantitatively and qualitatively superior to Boeing.

Lockheed also contends that a finding of equality in the offers should have only been made where there was a rational basis for it through proper documentation by the Source Selection Official. Lockheed argues that the Source Selection Official was required by the Federal Procurement Regulations to explain the basis for rejecting Lockheed's technical superiority over Boeing so that the award to Boeing would have a rational basis in fact. Lockheed goes on to argue that, if an assumption is made that the Source Selection Official awarded the contract to Boeing at a lower cost because the two companies' technical proposals were regarded as essentially equal, the assumption conflicts with the technical evaluation board's statements relating to Lockheed's technical superiority.

Lockheed therefore urges that we should at least ask the Secretary of Transportation to provide us with the reasons for the Source Selection Official's decision to award to Boeing.

The narrative analysis portion of the report of DOT's technical evaluation board was as follows:

"TECHNICAL EVALUATION TEAM OVERALL SUMMARY

"After careful study and evaluation, the Technical Evaluation Team has ranked the offerors in the following manner:

Lockheed
Boeing
Dynalectron
FEECO

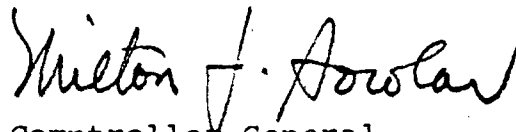
"It is clear to the team that Lockheed showed superior knowledge, understanding, and experience in testing and operations and would have little difficulty assuming the O&M contract function at the Transportation Test Center (TTC). Their experience at the White Sands Test facility very closely parallels that of the TTC and their proposal to move in a team that has worked together for years in an environment very similar to the TTC is outstanding.

"Behind Lockheed is the Boeing Corporation, who, like Lockheed, has a wealth of testing and operations experience at facilities similar to the TTC. The Boeing proposal showed a very good understanding of testing operations, control of costs, and planning and scheduling. They, too, would have little difficulty in assuming the O&M contract responsibilities at the TTC."

We do not think the above-quoted portion of the technical evaluation report conflicts with the conclusion in our prior decision that it was not unreasonable for the Source Selection Official to

make the award to Boeing to take advantage of Boeing's lower cost. While we may not have noted that, with respect to the board's narrative analysis, Lockheed was ranked higher than Boeing, we did state in our prior decision that whether a given point score variance between two competing proposals indicates a significant superiority of one over the other depends on all the facts and circumstances of each procurement. Wheeler Industries, Inc., B-193883, July 20, 1979, 79-2 CPD 41. The above-quoted language from the board's technical report clearly shows that the board found that both Boeing and Lockheed would be able to perform the contract with "little difficulty." The board also emphasized that Boeing, like Lockheed, had extensive testing and operations experience at facilities similar to DOT's Transportation Test Center. In our opinion, this finding reinforced the board's conclusion earlier in the report that, based on the evaluation criteria in the RFP, the offers of Boeing and Lockheed were of significantly higher quality than those of the other offerors. Given the fact, then, that paragraph 21 of the RFP stated that award would not necessarily be made for capabilities that would appear to exceed those needed for the successful performance of the work, we believe that Lockheed has presented no evidence or argument demonstrating any error of fact or law in our prior decision.

Our decision of July 31, 1981, is affirmed.



~~For the~~ Comptroller General
of the United States