

**DECISION**



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

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FILE: B-192155

DATE: April 2, 1979

MATTER OF: Audio Technical Services, Ltd.

DLB-01364

DIGEST: [Allegation That Technical Evaluation Was Unreasonable]

1. Protester has not shown that technical evaluation was unreasonable; therefore, it will not be disturbed.
2. Although decision to include only one proposal within competitive range is subject to close scrutiny, agency determination is upheld where there is neither close question of acceptability of proposal, likelihood of significant cost savings nor easily corrected deficiencies.

Audio Technical Services, Ltd. (ATS), has protested the award of a contract for the design, supply, fabrication, installation and testing of a multitrack audio recording system for the United States Army Band Training Center, Fort Myer, Virginia. The contract was awarded to Recording Consultants, Inc. (RCI), under request for proposals (RFP) No. DACA31-78-R-0005, issued by the Department of the Army, Baltimore District, Corps of Engineers (Corps). DLB-01028

DLB-01365

Background

Three proposals were received in response to the RFP. The technical proposals were evaluated by the technical evaluation team and were assigned a point score out of a possible 360 technical points. The selection team computed price/quality ratios (PQR) by dividing the offerors' proposed prices by their technical quality points in accordance with the RFP. The following ranking resulted:

	<u>Proposed Price</u>	<u>Technical Score</u>	<u>PQR</u>
RCI	\$121,949	346.33	\$352.12
ATS	119,731	223.33	536.12
Techniarts	158,739	230.66	688.20

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Based on the PQR's, RCI's proposal was considered to be the sole proposal within the competitive range. The selection team recommended that RCI's offer be accepted without discussions, as it was technically acceptable, achieved the lowest PQR, and was priced lower than the Government estimate of \$130,000. The contracting officer (C.O.) determined that there was adequate competition in accordance with Defense Acquisition Regulation (DAR) § 3-807.1(b)(1) (1976 ed.), because "there were at least two responsible offerors that were capable of satisfying the Government's requirements." Award was made to RCI on the basis of its initial proposal. According to the C.O., negotiations were not held with any of the offerors.

#### ATS's Allegations

ATS alleges that:

1. The Corps did not conduct negotiations with ATS even though it should have been included in the competitive range.
2. The Corps did negotiate with other offerors, thus treating offerors unequally.
3. The Corps did not solicit best and final offers as required by the RFP.
4. The contract could not have been awarded on the basis of the evaluation criteria set forth in the RFP, because, if the evaluation criteria had been properly applied, ATS would have been awarded the contract because it would have had the best price/quality ratio.

#### Technical Evaluation

ATS's allegation number 4 essentially questions the Corps' technical evaluation and the resulting technical score assigned to its proposal.

Basically, ATS contends that "independent specialists would confirm that of the three offers, Audio's proposal incorporated the most modern and efficient components at the least total cost to the Government." ATS specifically

alleges that its "amp connectors" and its AC supply circuitry are superior to the industry standards. ATS also alleges that, contrary to the evaluation team comments at a debriefing, its EMT delegation circuit would not require internal circuitry modification. ATS further contends that the criticism of its proposed layout was unfounded, because final plans were not required until after award. Finally, ATS states that its test procedure was unique and superior.

Generally, it is not the function of this Office to reevaluate technical proposals or resolve disputes over the scoring of technical proposals. Decision Sciences Corporation, B-182558, March 24, 1975, 75-1 CPD 175; Techplan Corporation, B-180795, September 16, 1974, 74-2 CPD 169; 52 Comp. Gen. 382 (1972). The determination of the needs of the Government and the method of accommodating such needs is primarily the responsibility of the procuring agency, 46 Comp. Gen. 606 (1967), which, therefore, is responsible for the overall determination of the relative desirability of proposals. In making such determinations, contracting officers enjoy "a reasonable range of discretion" in determining which offer should be accepted for award, and their determinations will not be questioned by our Office unless there is "a clear showing of unreasonableness, an arbitrary abuse of discretion, or a violation of the procurement statutes and regulations." METIS Corporation, 54 Comp. Gen. 612 (1975), 75-1 CPD 44.

After a careful review of the technical proposals and the individual scoring of the proposals, we are unable to conclude that the technical evaluation of the proposals by the Corps was unreasonable. While there might be a difference of opinion among technical experts over the items specifically mentioned by ATS, ATS has not shown that the Corps' opinion is unreasonable. The fact that a protester disagrees with an agency's evaluation does not in itself establish that the evaluation clearly had no reasonable basis. INTASA, B-191877, November 15, 1978, 78-2 CPD 347. We might also note that while ATS's technical proposal was found to be deficient in a number of

other areas and this was communicated to ATS at a debriefing, ATS has not disputed the Corps' determination in those areas.

#### Exclusion of ATS From the Competitive Range

ATS argues that it should have been included in the competitive range because its proposal was not "so technically inferior or out of line as to price as to render any discussions meaningless." Also, ATS contends that its proposal should have been included in the competitive range because it offered a significant cost savings.

Generally, a proposal must be considered to be within the competitive range, thus requiring discussions, unless it is so technically inferior or out of line as to price as to render discussions meaningless. 53 Comp. Gen. 1 (1973). The determination of whether a proposal is in the competitive range, particularly with respect to technical considerations, is primarily a matter of administrative discretion which will not be disturbed by our Office absent a clear showing that the determination lacked a reasonable basis. Dynalectron Corporation, B-185027, September 22, 1976, 76-2 CPD 267; Donald N. Humphries & Associates et al., 55 Comp. Gen. 432 (1975), 75-2 CPD 275. We will, however, scrutinize more closely any determination that results in only one offeror being included in the competitive range. Dynalectron Corporation, supra; Comten-Comress, B-183379, June 30, 1975, 75-1 CPD 400. In Comten-Comress, supra, we stated:

"\* \* \* If there is a close question of acceptability; if there is an opportunity for significant cost savings; if the inadequacies of the solicitation contributed to the technical deficiency of the proposal; if the informational deficiency could be reasonably corrected by relatively limited discussions, then inclusion of the proposal in the competitive range and discussions are in order. \* \* \*"

None of these conditions are present here. Our review of the technical evaluation and resulting technical scores has confirmed that there was not a close question of the acceptability of ATS's proposal. A cost saving of \$2,218 out of a contract price of \$121,949 is not so significant as to require inclusion of ATS's proposal in the competitive range. ATS has not alleged, nor does the record indicate, that either of the two other conditions is present here. Therefore, ATS's proposal was properly excluded from the competitive range.

Since discussions need be conducted only with offerors in the competitive range, the Corps properly did not negotiate with ATS or request a best and final offer from it. Whether the Corps did conduct discussions with RCI, as ATS alleges and the Corps denies, is irrelevant, since it would have been proper to do so.

Accordingly, the protest is denied.

  
Deputy Comptroller General  
of the United States