

should not have automatically precluded the proponent from discussions to determine whether the proposal which otherwise met requirements could be improved to meet the benchmark requirements. Unlike the referenced situation, the immediate case involved a proposal for a research and development contract. While our Office has held that the statutory and regulatory requirement for negotiations with all responsible offerors who submit competitive offers is equally applicable where a research and development contract is contemplated (B-158686, September 2, 1966, to the Secretary of the Army), the contracting officer advised us that the Custom Packaging proposal was not considered to be within a competitive range because it was imperative to utilize the highest technical competence available to the Government for the development of a weapon urgently needed for combat purposes.

In this context, Custom Packaging's proposal ranked last of the nine proposals received and was ranked very low as indicated by the spread in the weighted rates shown above. Moreover, Custom Packaging received a weighted rating of 80 out of a possible rating of 400 on technical approach. In the June 29 decision to the Small Business Administration, we stated that the company received a rating of two on the technical approach out of a possible weighted factor of 40. However, two—a rating of "poor"—was weighted by a factor of 40 extended to a weighted rating of 80. Ten, which was the rating of "excellent-superior," was the highest unit score attainable and would be projected out to a weighted rating of 400. Thus, even if through discussions with Custom Packaging, the weighted rating on the technical approach could have been brought up to 400, the total score would have only been 570, or almost 300 less than the total weighted score Nortronics received. Thus, it is not apparent how any benefit could have accrued to the Government by conducting discussions with Custom Packaging in view of the heavy emphasis placed upon the technical approach by the administrative office. In addition to being rated "poor" by the proposal evaluation committee on technical approach, the Custom Packaging proposal was also rated "poor" by the committee on technical personnel, background experience and facilities.

Although Custom Packaging was within a competitive range pricewise, both 10 U.S.C. 2304(g) and ASPR 3-805.1(a) require discussions with offerors who submit proposals within a competitive range, price and other factors considered. The term "other factors" has been held to include the technical acceptability of proposals. B-159540, January 11, 1967. Thus, whether a proposal is within a competitive range is not limited to an appraisal of price alone. As demonstrated above, the Custom Packaging proposal was so technically deficient that it was believed that discussions with the company could not bring it up to an acceptable level. We therefore are unable to conclude on the record before us that the proposal was within a competitive technical range that would have required discussions pursuant to the law and regulations. In this connection, as noted above and in our June 29 decisions, the procurement regulations provide that in selecting a contractor for research and development, the award of the contract can be influenced by the proposal demonstrating the highest competence and best scientific approach rather than the lowest price.

We trust the foregoing serves the purposes of your request.

Sincerely yours,

R. F. KELLER,

Acting Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,

Washington, D.C., June 1, 1967.

B-161031.

Mr. STANLEY A. REVZIN,
Vice President, Bristol Electronics, Inc.,
New Bedford, Mass.

DEAR MR. REVZIN: Reference is made to your telegram and letter of March 9 and 16, 1967, respectively, protesting against the action of the Army Electronics Command in restricting a procurement for AN/PRC-77 radio sets under request for proposals PIIN DAABO5-67-R-1176 to the Radio Corporation of America (RCA) on a sole-source basis primarily because the AN/PRC-77 radio set is an improved version of the AN/PRC-25 radio set which your company is manufacturing under a contract awarded after a formal advertisement for bids.