



Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

## REDACTED DECISION

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**Matter of:** Comarco, Inc.

**File:** B-258204.6

**Date:** October 26, 1995

Leslie H. Lepow, Esq., David A. Handzo, Esq., and Joseph E. Chontos, Esq., Jenner & Block, for the protester.

Mary Ann Gilleece, Esq., and Michael A. Hordell, Esq., Gadsby & Hannah, for Sverdrup Corporation, an interested party.

Russell P. Spindler, Esq., Department of the Navy, for the agency.

Scott H. Riback, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Protest that agency improperly failed to give effect to protester's proposed cost ceilings is denied where record shows that the ceilings were subject to significant conditions such that there was a reasonable basis to question the effectiveness of the ceilings and, in any event, the agency reasonably concluded that with or without the proposed ceilings, protester's proposal did not offer the best value to the government.
2. Protest against technical evaluation is denied where agency reasonably downgraded protester's management proposal on the basis that protester's extremely low proposed wage rates could adversely affect protester's ability to recruit and retain qualified personnel.
3. Protest that agency misled protester during discussions is denied where protester was advised of the agency's ratings and narrative discussion relating to the evaluation under each of the technical and management evaluation subfactors and was furnished with the entire cost realism evaluation report detailing each of the cost realism adjustments.

### DECISION

Comarco, Inc. protests the award of a contract to Sverdrup Corporation under request for proposals (RFP) No. N68936-93-R-0139, issued by the Department of the

Navy, Naval Air Warfare Center Weapons Division, for engineering support services at China Lake and Point Mugu, California. Comarco contends that the Navy improperly evaluated offers and misled it during discussions.

We deny the protest.

## BACKGROUND

The RFP contemplated the award of an indefinite delivery, indefinite quantity, cost reimbursement contract for the performance of engineering support services during a 5-year period. The solicitation provided that the agency's best estimate of the number of hours to be ordered during the period of performance was 7,000,000 man-hours; guaranteed a minimum quantity of 2,000,000 man-hours; and provided for a maximum base quantity of 8,000,000 man-hours over the 5-year period and also included two option quantities of 2,500,000 man-hours each, for a possible total quantity of 13,000,000 man-hours.

The RFP provided for award to the offeror submitting the proposal found most advantageous to the government, considering cost and the other evaluation criteria. The RFP listed three evaluation factors: (1) management (with an undisclosed weight of 40 percent), (2) technical, and (3) cost, with the latter two factors described as equal in weight (30 percent each) and less important than management. The management and technical factors were further divided into numerous subfactors, of which staffing approach, one of the management subfactors, is relevant for purposes of this protest. The RFP provided that the Navy would evaluate each firm's staffing approach to determine "the extent to which it reflects [the firm's] ability to recruit, hire, train and retain a qualified workforce to accomplish the [statement of work] requirements." The solicitation also included the standard clause from the Federal Acquisition Regulation (FAR) § 52.222-46, entitled "Evaluation of Compensation for Professional Employees," which advises offerors that the government will evaluate proposals for the realism of the offered compensation of professional employees, and that an offer for substantially less compensation than that provided under a predecessor contract could be viewed by the agency as evidence of the firm's lack of sound management judgment and understanding of the requirement. In addition, the solicitation generally advised offerors that the agency would evaluate their cost proposals for realism and reasonableness.

The Navy received five offers, including those of Comarco and Sverdrup, but initially established a competitive range consisting only of Sverdrup's proposal, concluding that the other proposals had no reasonable chance for award. (In advising Comarco of its proposal's elimination from the competitive range, the Navy provided it with a detailed statement of the agency's evaluation conclusions.) Subsequently, however, the agency determined that it was in the government's best

interest to revise the competitive range and conduct discussions with all firms submitting proposals. After written and oral discussions, the Navy requested best and final offers (BAFO).

In its BAFO, Comarco substantially reduced its proposed cost from the [deleted] initially proposed to [deleted]. In this regard, Comarco proposed a declining ceiling or cap on its fully burdened, weighted average direct labor rates, which would limit the weighted average rate per hour—calculated based on the labor mix specified in the RFP—to [deleted] in the first contract year, declining to [deleted] in the fifth contract year.<sup>1</sup> These proposed ceiling rates, however, were subject to three general types of conditions. First, Comarco conditioned the rates on the agency ordering between 85 and 100 percent of the solicitation's maximum man-hours, including option quantities (that is, between 11,050,000 and 13,000,000 hours). In the event that the agency ordered fewer man-hours, Comarco proposed to progressively increase the ceiling rates by stated percentages. If the agency ordered only 75 to 85 percent of the solicitation's maximum number of man-hours (9,750,000 to 11,050,000 man-hours), the ceiling rates were to be increased by 5 percent; if the agency ordered 65 to 75 percent of the maximum (8,450,000 to 9,750,000 man-hours), the ceiling rates were to increase by 10 percent; and if the agency ordered less than 65 percent of the maximum (8,450,000 man-hours), the ceiling rates were to be based on the direct labor rates from a predecessor contract.

Second, Comarco conditioned the ceiling rates on whether the other direct costs (ODC) under the contract equaled the estimated amount specified in the solicitation; Comarco proposed to progressively increase its proposed G&A rate—a component of the fully burdened direct labor rate—as the quantity of ODC decreased. For example, if the agency ordered only 75 to 85 percent of the RFP-specified quantity of ODC, the G&A rate would be adjusted upward [deleted] percent; if the agency ordered less than 25 percent of the RFP-specified quantity of ODC, the G&A rate would be adjusted upward 15 percent.

Third, Comarco's proposal called for equitable adjustments to the ceiling rates in the event that: (1) the mix of the hours ordered under the contract differed from the labor mix specified in the solicitation, (2) changes to federal, state or local laws impacted Comarco's direct labor costs, or (3) causes beyond Comarco's control (including, for example, unusually severe weather) impacted its direct labor costs.

In addition to the ceilings proposed by Comarco as the prime contractor, its major subcontractors also proposed to limit their direct labor rates. The subcontractors'

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<sup>1</sup>Fully burdened direct labor rates were defined in the proposal as including the costs of labor, labor overhead, general and administrative (G&A) expense and award fee.

ceilings would become effective only if the agency ordered at least 85 percent of the RFP's maximum man-hours, including options (11,050,000 hours). Further, like Comarco's ceilings, the subcontractors' ceilings also were conditioned on the agency's ordering the RFP-specified labor mix, and the subcontractors' proposals provided for equitable adjustments for changes in federal, state or local law, as well as for conditions beyond the control of the subcontractors.

The Navy concluded that the ceilings would be ineffective at limiting costs because of the conditions attached to their implementation. Of particular concern to the evaluators was the fact that the minimum quantity required for implementation of the rate ceilings—8,450,000 hours, or 65 percent of the total maximum requirement, including the option quantities—exceeded both the basic quantity under the RFP (8,000,000 man-hours) and the agency's best estimate of the number of hours likely to be ordered (7,000,000 man-hours). The evaluators also were concerned with the fact that Comarco's ceilings were conditioned on the agency's ordering the precise labor mix specified in the solicitation; because a change in the labor mix entitled Comarco to an equitable adjustment, the agency concluded that it could have no reasonable confidence in any most probable cost estimate based on application of the ceilings. In particular, the agency found that reliance on Comarco's ceilings would be risky in view of the unpredictable nature of the contract; the Navy could not anticipate in advance the labor mix that might ultimately be required. In addition, the evaluators were concerned that Comarco would be entitled to equitable adjustments based on the occurrence of events beyond the control of Comarco; they noted that under its predecessor contract, Comarco had claimed an equitable adjustment for costs arising from what it alleged was unusually severe weather, but that the claim had been denied because it was determined that the proximate cause of the additional costs had been a leaking roof at Comarco's facility, a matter within the control of the contractor.

Nevertheless, the Navy evaluated Comarco's proposal both with and without the proposed ceilings. The agency determined that in the event that it ordered both the basic and option quantities and all of the specified ODC, and also conformed to the labor mix specified in the RFP, so that the proposed ceilings applied, the probable cost of Comarco's proposal would be [deleted]. The difference between the firm's proposed ([deleted]) and evaluated cost was due in part to the agency's upward adjustment of Comarco's subcontractors' proposed direct labor rates; the agency reasoned that the higher 85-percent level-of-effort requirement for implementation of the proposed subcontractor rate ceilings would render the ceilings ineffective. (The agency also adjusted upward Comarco's subcontractor G&A rate.) Assuming application of the Comarco ceilings, the agency assigned Comarco's proposal a normalized management score of [deleted] out of a possible 40 points, reducing its score under the management factor on the basis that Comarco's proposed compensation rates were so low that it would have trouble recruiting and retaining staff. The Navy then evaluated Comarco's proposal under the assumption that the

ceilings would be ineffective because the agency would be unlikely to order sufficient man-hours to reach the thresholds specified for implementation of the ceiling rates. In performing this evaluation, the Navy used the compensation rates from the agency's independent government cost estimate (IGCE), which were based on the rates of compensation then being paid under the predecessor contracts for the requirement, one of which was being performed by Comarco. The agency found, assuming that the rate ceilings would be ineffective, that Comarco's probable cost would be [deleted]. (The agency also concluded that since it had used the higher IGCE compensation rates in arriving at this evaluated cost, it should assign a higher management score to Comarco's proposal.)

The Navy concluded that whether or not effect was given to Comarco's proposed ceilings, Sverdrup's proposal offered the best value to the government. The agency noted that, as set forth below, Sverdrup's proposal warranted the highest score even if the ceilings were assumed effective.<sup>2</sup>

#### Assuming Application of the Ceilings

	Management	Technical	Cost	Total Score	Evaluated Cost
Comarco	[deleted]	[deleted]	[deleted]	[deleted]	[deleted]
Sverdrup	[deleted]	[deleted]	[deleted]	[deleted]	[deleted]

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<sup>2</sup>The scores below were derived from a revised evaluation performed by the Navy after its initial source selection and Comarco's protest; this revised evaluation lowered Comarco's evaluated costs by substituting the proposed rates for overhead and home office G&A overhead for the higher rates used in the original evaluation. Although Comarco's total score of [deleted] points remained the same, Sverdrup's normalized cost score was [deleted], for a total evaluation score of [deleted] ([deleted]). (Since the Navy normalized the scores, assigning the maximum score to the proposal receiving the highest rating in a given area, and prorating the remaining scores accordingly, Sverdrup's relative cost score decreased as the relative difference between the two firms' evaluated cost increased.)

Assuming No Application of the Ceilings

	Management	Technical	Cost	Total Score	Evaluated Cost
Comarco	[deleted]	[deleted]	[deleted]	[deleted]	[deleted]
Sverdrup	[deleted]	[deleted]	[delted]	[deleted]	[deleted]

The Navy viewed Sverdrup's higher score as reflecting a superior approach to performing the contemplated contract. For example, the agency preferred Sverdrup's proposal of significantly [deleted] than proposed by the other offerors, finding that this would result in [deleted], and would facilitate the integration of its subcontractors with the prime contractor. The Navy also considered it a strength that Sverdrup proposed [deleted], thereby minimizing the potential for either [deleted] or disputes with the government relating to [deleted]. The agency further noted that Sverdrup had proposed more realistic costs than Comarco, with the agency having to adjust Sverdrup's costs upward for evaluation purposes by only [deleted] percent, while Comarco's proposed costs had to be adjusted upward by [deleted] percent with its ceilings and [deleted] percent without the ceilings.

COST EVALUATION

Comarco principally argues that the Navy erred in concluding that the proposed cost ceilings would be ineffective in controlling costs under the contemplated contract. The protester claims that the agency's concern with the minimum threshold for implementation of the ceilings reflects the agency's intention to disregard the scope of the contract, and order far fewer man-hours than the maximum available under the RFP, including options. Comarco also maintains that, to the extent that the agency was concerned that changes in the labor mix would furnish an incentive on the part of the contractor to propose or utilize a higher level labor mix, its concern was unfounded because it is the agency, and not the contractor, that decides what labor mix will be used. Finally, Comarco maintains that any adjustments arising because of events beyond the contractor's control are likely to be of small magnitude and, in any case, are available to all contractors.

When agencies evaluate proposals for the award of a cost reimbursement contract, an offeror's proposed costs are not dispositive since, regardless of the costs proposed, the government generally is bound to pay the contractor its actual allowable costs. Federal Acquisition Regulation § 15.605(d). Consequently, a cost realism evaluation must be performed by the agency to determine the extent to which a firm's proposed costs represent what the contract should cost, assuming

reasonable economy and efficiency. Halifax Technical Servs., Inc., B-246236.6 et al., Jan. 24, 1994, 94-1 CPD ¶ 30. Because the contracting agency is in the best position to make this cost realism determination, our review is limited to determining whether it was reasonable. Id.

As a general rule, the use of cost ceilings or caps shifts the responsibility for cost overruns from the government to the contractor; as a result, upward adjustments to proposed capped costs are improper, unless there exists some legitimate reason to question the effectiveness of the cap or ceiling. Id. Since the objective of any cost realism evaluation is to provide the agency with information necessary to make an informed judgment regarding the likely costs of performance, CACI, Inc.-Fed., 64 Comp. Gen. 71 (1984), 84-2 CPD ¶ 542, a cap or ceiling that is subject to variables that undermine or invalidate the predictive value of a cost realism analysis is inconsistent with that objective. Here, we find that the Navy reasonably determined that Comarco's proposed ceilings were ineffective or would have an effect impossible to ascertain.

Since the implementing thresholds for the ceilings exceeded both the basic maximum contract quantity and the agency's best estimate of the likely quantity, there was no assurance that the ceilings would be effective. (Although Comarco contends that the agency's concern in this regard was based on an intention to order a level of effort below that potentially contemplated by the RFP, Comarco overlooks the fact that the solicitation clearly advised offerors that the agency's best estimate of the number of man-hours to be ordered was only 7,000,000; the fact that the agency provided for contingencies in the form of additional and option quantities does not invalidate its best estimate of what it will actually order.) Further, to the extent that the proposed cost ceilings potentially could affect the cost of performance, we agree with the agency that there was no way to reasonably predict the extent of any cost savings, since the savings would be affected by the labor mix needed, and the exact required labor mix would not be known until performance. Finally, the fact that adjustments to Comarco's reimbursement based on changes to federal, state or local law or conditions outside the control of the contractor would also be available to any cost reimbursement contractor is immaterial; the object of a cost ceiling is to shift the risk of cost overruns, regardless of cause, from the government to the contractor, and Comarco's conditions have precisely the opposite effect.

We conclude that the Navy reasonably questioned the effectiveness of Comarco's proposed ceilings based on the numerous conditions associated with their application; since the possible variance in cost arising from application of these conditions would undermine the predictive value of the Navy's cost evaluation, the Navy is correct that they should have been ignored.

In any case, the record shows the Navy reasonably determined that even with Comarco's cost ceilings, Sverdrup's proposal offered the best value to the government. As shown in the above tables, Sverdrup's total score was higher than Comarco's under either approach. Comarco does challenge two aspects of the cost evaluation with the ceilings, but its arguments are without merit. Comarco argues first that the agency applied improper overhead and home office G&A rates when arriving at Comarco's evaluated costs assuming application of the ceilings. The record shows, however, that the agency recalculated the protester's evaluated costs using the rates that Comarco proposed, and that this recalculation would have no effect on the agency's source selection. Similarly, Comarco alleges that the agency improperly failed to accept the ceilings on direct labor proposed by its subcontractors. For the same reasons that Comarco's ceilings were properly ignored, the agency properly ignored its subcontractor and ceilings. Although the agency did not recalculate Comarco's evaluated costs assuming application of the subcontractor ceilings, the record shows that Comarco still would not have been in line for award had the agency done this. Accepting the subcontractors' direct labor costs as proposed would result in a downward adjustment to Comarco's evaluated costs of [deleted]; such a downward adjustment would result in Sverdrup's receiving [deleted] fewer points for its normalized cost score. Sverdrup's resulting overall score [deleted] would still be higher than Comarco's [deleted]. In these circumstances, and given the evaluated technical and management advantages inherent in the Sverdrup approach, the agency's source selection was reasonable; Sverdrup was in line for award even with application of the ceilings.<sup>3</sup>

#### MANAGEMENT EVALUATION

Comarco maintains that the Navy improperly lowered its management score when evaluating its proposal with the ceilings to account for the lower proposed

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<sup>3</sup>Comarco also takes issue with various aspects of the evaluation of Sverdrup's cost proposal. We have reviewed all of Comarco's allegations in this area and find them to be without merit; Comarco's arguments either misstate the record and/or are largely speculative and devoid of specific objection to the agency's actions. For example, Comarco challenges the agency's acceptance of Sverdrup's salary [deleted]. Contrary to Comarco's assertions, the record shows that Sverdrup's proposed rate in this area was in fact reviewed by the Defense Contract Audit Agency (DCAA), as well as by the agency. DCAA took no exception to Sverdrup's proposed rate, while the agency, noting that Sverdrup had proposed a [deleted] rate than proposed by any of the prime contractor offerors, concluded that the rate was reasonable and would support the [deleted] offered by Sverdrup. Comarco raises no specific objection to the agency's analysis, and we have no basis to question it on this record.

compensation rates on which the ceilings were based. Comarco contends that, as described in its proposal and demonstrated by surveys that it conducted, its proposed cost ceilings reflected depressed wages in the relevant geographic area. Comarco also notes that DCAA took no exception to its proposed direct compensation rates.

The evaluation of technical proposals is primarily the responsibility of the contracting agency; the agency is responsible for defining its needs and the best method of accommodating them and must bear the consequences of any difficulties resulting from a defective evaluation. Therefore, our Office will not engage in an independent evaluation of technical proposals and make an independent determination of their relative merits. Litton Sys., Inc., B-239123, Aug. 7, 1990, 90-2 CPD ¶ 114. Rather, we will review the agency's evaluation only to ensure that it was reasonable and consistent with applicable statutes and regulations, as well as the terms of the RFP. Polar Power, Inc., B-257373, Sept. 2, 1994, 94-2 CPD ¶ 92.

The record shows that the Navy lowered Comarco's management score from [deleted] points to [deleted] points when considering the effect of Comarco's proposed ceilings. The agency concluded that given the rates and ceilings proposed in Comarco's BAFO, "recruiting and retention of personnel (key and other) may well be initially difficult and could ultimately become impossible over time. Competing employment opportunities from other support contractors would frustrate effective staffing and encourage undesirable personnel churning." The agency based its conclusion on a comparison of Comarco's proposed wage rates to: (1) the wage rates from the IGCE, which were derived from wages being paid for these same services under predecessor contracts (one of which was a contract being performed by Comarco); and (2) the wage rates presented in two Department of Labor studies. Comarco's proposed wage rates were significantly lower on average when compared to the wage rates set forth in the IGCE ; in the second contract year, for example, Comarco's average proposed wage rate for senior engineers was [deleted] per hour compared to the average IGCE wage rate of \$43 per hour. Further, the disparity between Comarco's proposed wage rates and the likely prevailing wages became more pronounced in the later years of the contract, with Comarco's proposed wages being as much as [deleted] percent lower during the final contract year. The agency concluded that, notwithstanding the materials presented in Comarco's proposal, the firm would be unable to recruit and retain qualified staff at its offered wages, especially in view of the fact that Comarco proposed to perform with more than 90 percent of its current workforce. The agency was also concerned by the fact that Comarco proposed only a [deleted] percent escalation rate for its direct labor, while the solicitation and the IGCE were prepared with the assumption that a 3.22 percent escalation factor would be adequate for employee retention.

The solicitation specifically cautioned firms that an offer for substantially lower professional compensation than that provided under a predecessor contract could be viewed by the agency as evidence of the firm's lack of sound management judgment and understanding of the requirement. Given the disparity between Comarco's proposed wage rates and the wage rates generally prevailing now, and as extended into the future, we believe the agency could reasonably conclude that Comarco's compensation rates were so low that it would have trouble recruiting and retaining staff. Of particular significance is the fact that Comarco proposed to use over [deleted] percent of its current staff—employees receiving higher wages under the predecessor contract—to fill positions required under the RFP; the agency clearly indicated its desire for continuity of staffing, and Comarco's proposed compensation was simply inconsistent with this objective. Moreover, even if Comarco's surveys support its position that wages in the area are currently depressed, these surveys provide no assurance that the relatively low wages Comarco intends to offer will be adequate to attract properly qualified employees at the time (over the 5 years of the contract) additional employees may become necessary. The agency's downgrading of Comarco's proposal in the management area merely reflects its assessment of the relative risks associated with Comarco's staffing approach, as compared to the approaches offered by other competing firms. Finally, the fact that DCAA took no exception to Comarco's proposed compensation does not affect the reasonableness of the agency's evaluation conclusion. As noted, the agency was making a judgment regarding the relative merits and risk of Comarco's proposed management approach in recruiting and retaining employees. For purposes of this aspect of the Navy's evaluation, it was not assessing the reasonableness of Comarco's proposed costs, but rather, the potential effect those costs might have on its relative ability to recruit and retain qualified employees. Titan Corp., B-260557.2, July 18, 1995, 95-2 CPD ¶ 89. DCAA's audit opinion simply does not address this evaluation consideration. Accordingly, we find no basis to question the downgrading of Comarco's proposal under the management evaluation factor.

## DISCUSSIONS

Comarco alleges that the Navy misled it during discussions by in effect advising it that it would have to dramatically reduce its proposed cost in order to have a reasonable chance of receiving award. In this connection, Comarco notes that the agency's initial competitive range elimination letter advised Comarco that while it had received highly acceptable management and technical ratings, its "cost proposal was the highest overall as proposed and resulted in the highest evaluated cost";<sup>4</sup> Comarco asserts that it concluded from reading this letter that its proposal had

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<sup>4</sup>In advising Comarco of its decision to include its proposal in the competitive range, the agency specifically withdrew this representation.

been eliminated from the competitive range (later rescinded) based solely on high cost. Further, Comarco claims that it was advised during oral discussions not to attempt to raise its management and technical scores in its BAFO, and that this advice, combined with the agency's earlier statement relating to its high cost, led it to conclude that it had to dramatically reduce its cost proposal in order to have a chance of receiving award. Comarco also alleges that the agency failed to provide detailed information relating to cost elements in its proposal other than direct labor, and that it was therefore unaware that the agency considered these other elements of its proposal unrealistically low. Comarco concludes that it took the only reasonable course of action; it reduced its direct labor costs and offered its ceilings.

Agencies are required to conduct meaningful discussions with all competitive range offerors. Price Waterhouse, B-254492.2, Feb. 16, 1994, 94-1 CPD ¶ 168. In order for discussions to be meaningful, agencies must generally point out weaknesses, excesses, or deficiencies in proposals, unless doing so would result in disclosure of one offeror's technical approach to another offeror or technical leveling. See FAR § 15.610; Lone Star Fleischwaren Im-Export GmbH, B-259588.2, May 25, 1995, 95-1 CPD ¶ 263; Ogden Logistics Servs., B-257731.2; B-257731.3, Dec. 12, 1994, 95-1 CPD ¶ 3. Although agencies are not required to conduct all-encompassing discussions, or to discuss acceptable aspects of a proposal merely because they receive less than the maximum possible score, John Brown U.S. Servs., Inc., B-258158 et al., Dec. 21, 1994, 95-1 CPD ¶ 35, they are required to reasonably lead offerors into areas of their proposals which require amplification or correction. Medland Controls, Inc., B-255204; B-255204.3, Feb. 17, 1994, 94-1 CPD ¶ 260; Price Waterhouse, supra; cf. Miltope Corp.; Aydin Corp., B-258554.4 et al., June 6, 1995, 95-1 CPD ¶ 285. We find that the Navy adequately discharged its obligation to conduct meaningful discussions here.

As an initial matter, the record shows that all firms in the competition, including Comarco, were advised during oral discussions of the risk that significant changes in their technical or management proposals could result in their being downgraded rather than upgraded. There was nothing improper in the agency's actions in this respect, since this statement amounted to no more than the usual general cautionary advice given to firms whose proposals had been found technically acceptable.

Turning to the merits, the record further shows that the agency's competitive range elimination letter to Comarco was extremely detailed in its discussion of the Navy's initial evaluation of Comarco's proposal; the letter presented the agency's ratings and narrative discussion relating to the evaluation of Comarco's proposal under each of the technical and management evaluation subfactors and included the entire cost realism evaluation report detailing each of the agency's cost realism adjustments. We find that the record establishes that when viewed as a whole, the discussions conducted by the Navy were meaningful. Comarco was specifically

apprised of the agency's evaluation of every aspect of its proposal and, in particular, of the agency's view regarding all elements of its cost proposal. Of particular importance, the letter advised that:

"Comarco's proposed labor rates result in a proposed direct labor cost [deleted] percent lower than using the IGCE rates, which are heavily influenced by what Comarco is currently paying their employees. While it may be true that some unemployed workers may be willing to work for less pay than the incumbent employees, it is not reasonable to assume that Comarco will be able to reduce the average payroll by [deleted] percent when they are employing [deleted] percent of their proposed workforce."

The letter added that "the government is concerned that the offeror would not be able to recruit and retain a qualified and motivated workforce at the proposed labor rates."

The agency also advised Comarco that it viewed numerous other cost elements as understated. Nevertheless, Comarco reduced its direct labor costs still further in its BAFO. We do not think that the protester was misled by the Navy during discussions; rather, it appears that Comarco structured its BAFO in this manner simply because of a business decision to offer the agency the lowest cost proposal.<sup>5</sup> The Navy found Comarco's approach less advantageous than Sverdrup's, and as already discussed, we have no basis to object to the agency's conclusion in this regard.

The protest is denied.

Comptroller General  
of the United States

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<sup>5</sup>Comarco also contends that the agency improperly refused to indicate its relative standing among the competitive range offerors; however, such action on the part of the agency would have been improper because it would have constituted a prohibited auction technique. FAR § 15.610(e)(2)(ii).