



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Booz-Allen & Hamilton, Inc.

File: B-275934.2

Date: May 29, 1997

Paul Shnitzer, Esq., and Mark D. Taylor, Esq., Crowell & Moring, for the protester.
Paul F. Khoury, Esq., and David A. Vogel, Esq., Wiley, Rein & Fielding, for EG&G
Washington Analytical Services Center, Inc., an intervenor.

E.J. Hong, Esq., and James I. Menapace, Esq., Department of the Navy, for the
agency.

Ralph O. White, Esq., and Christine S. Melody, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protester's arguments that the cost realism adjustments made to the proposed costs of two of its subcontractors were unreasonable is denied where the record shows that the agency had sound reasons for each of its conclusions and performed its evaluation consistent with the requirements set forth in the solicitation.

DECISION

Booz-Allen & Hamilton, Inc. protests the award of a contract to EG&G Washington Analytical Services Center, Inc. pursuant to request for proposals (RFP) No. N00024-96-R-6430, issued by the Department of the Navy to procure technical and engineering support services for three Navy program offices--the New Attack Submarine Program, the Submarine Electronics Systems Program, and the AN/BSY-2 Program. Booz-Allen argues that the Navy made unreasonable cost realism adjustments to the proposed costs of two of its subcontractors.

We deny the protest.

*The redacted version of this decision does not reveal the identity of Booz-Allen's subcontractors, but instead refers to the two subcontractors as Company A and Company B.

BACKGROUND

This is the second protest of this procurement. A more comprehensive explanation of the RFP and the Navy's award decision is set forth in our decision on the first protest, General Physics Fed. Sys., Inc., B-275934, Apr. 21, 1997, 97-1 CPD ¶ 171 at 2-4. As Booz-Allen's protest challenges only the cost realism adjustments made to two subcontractors, we need not repeat the full background of this procurement here.

Upon completion of the evaluation of offers for this cost-plus-award-fee level-of-effort contract--reserved for the offeror whose proposal offered the best value to the government--the Navy concluded that only the proposals of Booz-Allen and EG&G were in the competitive range. The assigned scores and proposed and evaluated costs for the two competitive range offerors are set forth below:

| OFFEROR | SCORE | PROPOSED COSTS | EVALUATED COSTS |
|----------------|--------------|-----------------------|------------------------|
| EG&G | 90.10 | \$106,567,354 | \$107,524,326 |
| Booz-Allen | 86.20 | [deleted] | [deleted] |

Using the offerors' total scores and evaluated costs, the Navy applied a series of calculations set forth in the RFP to determine which proposal offered the best value to the government. In essence, the Navy was willing to pay a premium of up to 30 percent above a minimally acceptable proposal with the lowest evaluated cost. The application of these formulae resulted in the determination that the EG&G proposal presented the best value,¹ and it was selected for award on December 20, 1996.

Booz-Allen learned of the award on December 30, and requested a debriefing, which was held on January 7, 1997. During the debriefing, the Navy provided the company with its own evaluation information, but withheld from Booz-Allen information deemed proprietary to its subcontractors. Since one of Booz-Allen's subcontractors, [Company A], attended Booz-Allen's debriefing, the Navy gave a separate debriefing to [Company A] immediately following Booz-Allen's debriefing. A second major subcontractor, [Company B], also requested a debriefing, and received a written explanation of the Navy's cost realism adjustments by letter dated January 12.

¹While a detailed description of the Navy's tradeoff formula is not relevant to the considerations here, the result of the Navy's calculations is an advantage worth \$890,423 in EG&G's favor. To the extent Booz-Allen could reduce its evaluated costs by more than this amount, the Navy would conclude that Booz-Allen's proposal is more advantageous to the government.

By letter dated January 10, Booz-Allen complained to the agency regarding the cost realism analysis of [Company A]'s proposal, and by letter dated January 14, [Company B] complained regarding its own cost realism analysis. The Navy denied both agency-level protests on February 6, and this protest followed.²

ANALYSIS

As stated above, Booz-Allen's protest here is limited to the upward cost realism adjustments made to the proposed costs of two of its subcontractors, [Company A] and [Company B]. With respect to [Company A], Booz-Allen challenges the Navy's: (1) use of unaudited 5-month year-to-date overhead rates instead of the audited full-year rates identified in [Company A]'s proposal (adding \$392,897); (2) use of certain of the RFP's average labor category rates instead of the category average rates proposed by [Company A] (adding \$805,392); and (3) use of the RFP's suggested wage escalation rate of 3.6 percent instead of [Company A]'s proposed [deleted] percent rate (adding \$440,647). With respect to [Company B], Booz-Allen challenges the Navy's: (1) upward adjustments to the proposed rates for two individuals who Booz-Allen now asserts are not properly subject to overhead burdens and general and administrative (G&A) expense (adding \$444,080); and (2) use of on-site labor overhead rates for [Company B] employees Booz-Allen claims will be working at its facility instead of the off-site (and lower) overhead rates applied to the costs for these employees in [Company B]'s proposal (adding \$870,000).

When an agency evaluates proposals for the award of a cost reimbursement contract, an offeror's proposed costs are not dispositive, because regardless of the

²For the record, we disagree with EG&G's contention that Booz-Allen may not now raise the issues challenged by [Company B] in its January 14 letter. Since the cost realism adjustments made to [Company A]'s and [Company B]'s subcontract proposals included proprietary information not releasable to Booz-Allen, the two subcontractors received separate debriefings. While Booz-Allen raised an agency-level challenge to the adjustments made to [Company A]'s proposal by letter dated January 10, it could not raise with specificity any issues regarding the adjustments made to [Company B]'s proposal, as the Navy did not provide a debriefing to [Company B] until January 12. Immediately thereafter, [Company B] filed its own timely agency-level challenge to the adjustments made to its proposal. Although our Office would not have considered [Company B] an interested party to challenge the selection of EG&G, see 4 C.F.R. § 21.0(a) (1997), the Navy accepted and addressed [Company B]'s agency-level challenge--providing a response to [Company B] on the same day, February 6, it responded to Booz-Allen. Since only Booz-Allen can challenge the Navy's agency-level response to [Company B] before our Office, and since both Booz-Allen's and [Company B]'s agency-level protests were timely (as was the subsequent protest filed with our Office), see 4 C.F.R. § 21.2(a) (2), (3), Booz-Allen properly may raise the challenges related to both subcontractors.

costs proposed, the government is bound to pay the contractor its actual and allowable costs. Federal Acquisition Regulation (FAR) § 15.605(c). Consequently, a cost realism analysis must be performed by the agency to determine the extent to which an offeror's proposed costs represent what the contract should cost, assuming reasonable economy and efficiency. CACI, Inc.-Fed., 64 Comp. Gen. 71, 75 (1984), 84-2 CPD ¶ 542 at 5. Contracting officers are required by the FAR to document this evaluation, FAR § 15.608(a)(1), and when properly documented, our review of an agency's exercise of judgment in this area is limited to determining whether the agency's cost evaluation was reasonably based and not arbitrary. General Research Corp., 70 Comp. Gen. 279, 282 (1991), 91-1 CPD ¶ 183 at 5, recon. denied, American Management Sys., Inc.; Department of the Army--Recon., 70 Comp. Gen. 510, 515 (1991), 91-1 CPD ¶ 492 at 7-8; Grey Advertising, Inc., 55 Comp. Gen. 1111, 1126 (1976), 76-1 CPD ¶ 325 at 27-28.

Use of Year-to-Date Overhead Rates

[Company A]'s proposal allocated its direct labor costs to two discrete overhead pools, called departments, based on whether the individuals were specifically identified in the proposal. Identified personnel were assigned to department 80 (described as "services" in [Company A]'s proposal), with an overhead rate of [deleted] percent. Unidentified personnel were assigned to department 30 (described as "specialties" in the proposal), with an overhead rate of [deleted] percent.

The Navy submitted [Company A]'s cost proposal to the Defense Contract Audit Agency (DCAA) for review. DCAA noted that although the proposal used only two labor overhead rates--departments 80 and 30, described above--[Company A] was, in fact, offering personnel whose direct labor costs were traditionally allocated to six different overhead pools. Since the use of only two overhead pools was a deviation from the company's established accounting practice, DCAA calculated a weighted average overhead rate of [deleted] percent using the actual departmental assignments of the employees.

The Navy's Cost Analysis Panel (CAP) elected not to use the weighted average overhead rate prepared by DCAA, and decided to accept [Company A]'s approach of allocating its costs only to departments 80 and 30. Nonetheless, the CAP concluded that [Company A]'s historical rates for these departments from 1991 to 1995 might not accurately reflect overhead costs given [Company A]'s decision to deviate from its past allocation practices. Since the only rates available using the proposed deviation from [Company A]'s standard practice were unaudited year-to-date rates, the CAP instead applied the actual rates for the first 5 months of 1996--[deleted] percent and [deleted] percent, for departments 80 and 30, respectively. While these rates were higher than the [deleted] and [deleted] percent rates proposed, they were lower than the [deleted]-percent rate recommended by DCAA.

Booz-Allen argues that the Navy's use of part-year rates was unreasonable because the Navy accepted [Company A]'s proposed allocation to two departments, but did not accept the historical rates for those departments. Booz-Allen also complains that the Navy's use of part-year rates was unreasonable because DCAA took no issue with the rates, despite the agency's assertion to the contrary, and because part-year rates are often anomalous and generally should not be substituted for full-year rates.

In our view, there was nothing unreasonable about the Navy's decision to accept [Company A]'s proposed allocation of costs to two departments, but not to accept the historical rates for those two departments. While we agree with Booz-Allen that the use of a full year of cost experience is generally preferable for calculating indirect rates, and that the use of part-year rates can result in anomalies, see generally FAR § 31.203(e), we will not overturn agency evaluation decisions based on less than full-year rates when the agency has sound reasons for doing so. See generally AmerInd, Inc., B-248324, Aug. 6, 1992, 92-2 CPD ¶ 85 at 10-11.

Here, as indicated above, the Navy's evaluators expressed a concern that the historical rates for these departments might not be indicative of the rates that will be experienced given the changes in [Company A]'s allocation practices. In order to gain a more realistic snapshot of what [Company A]'s billings to the government might be, the Navy reviewed the year-to-date figures derived using the proposed allocation practices, and found them higher than past annual rates. Due to concerns about relying on figures derived from different allocation practices, the Navy substituted the only actual figures available under [Company A]'s proposed approach. We see nothing unreasonable about this adjustment under the circumstances present in this procurement. Compare AmerInd, Inc., supra (agency properly substituted year-to-date figures for the full-year historical figures included in an offeror's proposal to adjust proposed G&A expense where record showed that the G&A currently experienced was significantly higher than the historical rates) with Geo-Centers, Inc., B-276033, May 5, 1997, 97-1 CPD 182 at 10 (agency's decision to accept an offeror's shifting of costs to an on-site cost center found reasonable where the agency followed DCAA's advice regarding acceptance of the rates, and no evidence was presented showing that assignment of more personnel to this cost center than in the past would change DCAA's conclusion).

In addition, while Booz-Allen is correct in its claim that DCAA did not take issue with [Company A]'s proposed rates for departments 80 and 30, its complaint misses the point. DCAA accepted the rates, but not the allocation of costs. Thus, DCAA used [Company A]'s rates to calculate a recommended weighted-average rate, which, incidentally, would have been much less favorable to [Company A] than the rates the Navy used. Finally, we note that Booz-Allen has made no specific showing

that the 5-month year-to-date rates used here might contain costs that make the rates unrepresentative of the total annual indirect cost experience.³

Category Average Labor Rates

As explained above, [Company A]'s proposal either named specific individuals for the required labor categories (permitting verification of the actual rates paid to those individuals), or proposed category average labor rates for those areas where specific individuals were not identified in the proposal. In several instances, the Navy rejected [Company A]'s category average rates and substituted the rates identified in the RFP. Booz-Allen argues that the Navy's adjustment in this area, adding \$805,392 to [Company A]'s proposal, was unreasonable.

The RFP advised potential offerors that their cost proposals should include "under each cost element a narrative description, in sufficient detail, to demonstrate price reasonableness, credibility and reliability." RFP, section L-2, paragraph 8.2 at 119. In addition, the RFP set forth unburdened base year labor rates for each of ten labor categories. RFP, section L-2, paragraph 8.2.2 at 120. Accompanying these rates were the following instructions:

"The base year labor rate column, while not a firm requirement, represents the unburdened hourly rate (direct labor) the Navy estimates is required to hire and retain personnel at the skill levels defined under Labor Mix Definitions.

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". . . unsubstantiated unrealistic rates may result in an adjustment to the cost data." Id.

[Company A]'s proposal offered several category average rates significantly below the rates suggested by the RFP. For example, while the RFP-suggested rate for a Senior Staff Level-2 position is \$31.66 per hour or above, [Company A] proposed a rate of [deleted] per hour. In apparent explanation, [Company A]'s cost proposal states that "[t]he hourly rates of the employees within each skill type at a specific level are averaged to arrive at a labor category bid rate." [Company A] Cost Proposal, July 30, 1996, section 3, first unnumbered page. [Company A] argues that since these rates are based on average actual rates it was unreasonable for the Navy to adjust the rates upward.

³For example, in AmerInd the protester offered evidence that the year-to-date rate used was unusually high because of certain events--such as the loss of funding on one contract and delays in awarding others. AmerInd, Inc., supra at 11 n.4. The record here contains no such claim.

The Navy explained that it was concerned about the wide discrepancy between some of [Company A]'s category averages and the rates the Navy believed would be necessary to hire and retain qualified people. In addition, the Navy explained that its concern was increased when it noticed that the category average rates were lower than the actual rates paid to identified personnel within those categories. Finally, since the Navy viewed [Company A]'s explanation of its rates as insufficient to justify the discrepancy, the Navy elected to use the RFP-recommended rates.

We have no basis to consider the Navy's actions in this regard unreasonable. While [Company A] correctly claims that its proposal states that the rates are actual averages, the proposal is silent on the subject of why [Company A] believes it can meet the Navy's needs--now and in the option years--with rates significantly below the RFP-recommended rates. In this regard, [Company A] cannot claim to have met the RFP's section L-2 requirement to provide a narrative with sufficient detail to demonstrate the reasonableness of proposed prices. In addition, in the absence of a compelling justification for its lower wage rates, we think the Navy reasonably questioned the difference between the proposed rates and the actual rates paid to identified personnel. AmerInd, Inc., supra at 7.

[Company A]'s Wage Escalation Rates and [Company B]'s Proposed Rates for Two Individuals

Booz-Allen's final challenge to the Navy's adjustments to [Company A]'s proposed costs--i.e., that the agency unreasonably rejected its wage escalation rate--and its contention that the Navy unreasonably adjusted the actual wage rates paid to two [Company B] employees, raise the same issue. In essence, for both of these adjustments Booz-Allen acknowledges that its subcontractors failed to provide explanatory information to justify their approaches, but argues that the Navy had other access to the information necessary to permit the agency to accept the approaches specified in the proposals.

With respect to the wage escalation rate, the RFP specified that:

"offerors and subcontractors, if any, are to propose 3.6 [percent] escalation for each option year (one through four). Any deviation (upward or downward) from the proposed 3.6 [percent] shall be fully documented **and** include an established corporate policy on the proposed escalation rate."

RFP, section L-2, paragraph 8.2.2, pp. 119-120 (underlining and bold in original). Booz-Allen explains that while [Company A] proposed a wage escalation rate of [deleted] percent for each of the option years, the company "inadvertently omitted" the documents justifying its lower rate. Booz-Allen's Comments, Mar. 31, 1997, at 8. Nonetheless, Booz-Allen argues that the Navy should have accepted [Company A]'s lower proposed escalation rate because four recent [Company A] proposals

submitted to the Naval Sea Systems Command--the Command conducting the instant procurement--contained the supporting documentation omitted here. According to Booz-Allen, the Navy should have used the information submitted in those proposals to evaluate [Company A]'s proposal here. Booz-Allen argues that this situation is analogous to the one addressed in our recent decision in International Business Sys., Inc., B-275554, Mar. 3, 1997, 97-1 CPD ¶ 114. We disagree.

In the International Business Systems case we sustained a protest against an agency's failure to consider favorable past performance information that would have been generated from information provided in the offeror's proposal. Specifically, even though the protester there identified an earlier contract providing the same services to the same agency and handled by the same contracting officer--and even though the record included concrete evidence of the contracting officer's first-hand knowledge of the protester's favorable performance of that contract--the agency did not consider the protester's favorable past performance there because other agency personnel failed to complete and return the past performance questionnaire to the contracting officer. Id. at 4-6.

We do not consider the situation here to be sufficiently similar to the International Business Systems case to justify shifting the responsibility for this omission from the protester to the agency. The protester here is the party that failed to provide the requested justification, despite an explicit requirement in the RFP to do so. Simply put, an offeror has the burden to submit a proposal adequate for evaluation, especially, where, as here, the offeror is on notice that the agency intends to make award based on initial proposals without discussions. Titan Corp., B-260557.2, July 18, 1995, 95-2 CPD ¶ 89 at 9. Given that the proposal failed to include the information needed and that the Navy did not--and was not required to--hold discussions, we conclude that the CAP reasonably rejected [Company A]'s significant deviation from the RFP's recommended escalation rate. Crimson Enter., Inc., B-243193.4, June 12, 1992, 92-1 CPD ¶ 512 at 10-11. See also NSI Tech. Servs. Corp., B-253797.4, Dec. 29, 1993, 93-2 CPD ¶ 344 at 12-13.

Similarly, Booz-Allen argues that the Navy should have looked beyond [Company B]'s proposal to other information before making an upward adjustment to the rates of two of the personnel proposed there. Specifically, [Company B]'s proposal identified hourly rates for two individuals significantly lower than the actual rates paid to these individuals, and offered no explanation for the difference. During the course of this protest, Booz-Allen acknowledged that the rates for these individuals were not actual rates, but were adjusted downwards to reflect reductions in indirect costs associated with their status as retirees. Thus, in Booz-Allen's view, the rates were an attempt to show the true cost to the government for these individuals.

While Booz-Allen now points to an unrelated DCAA report accepting this method of calculating the labor rates for these two individuals, we again view this as a matter

[Company B] was required to explain in its proposal. As above, absent such an explanation, we do not agree that the agency should have accepted the rates proposed.

Finally, we need not consider Booz-Allen's last contention--i.e., that the Navy used an incorrect overhead rate for [Company B]'s personnel--because the amount of the adjustment (\$870,000) is less than the advantage assigned to EG&G's proposal (\$890,423) by the Navy's best value calculation. Thus, even if Booz-Allen prevailed in its challenge to this adjustment, EG&G's selection would stand.

The protest is denied.

Comptroller General
of the United States