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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: MPRI, Division of L-3 Services, Inc.; LINC Government Services

File: B-402548; B-402548.2; B-402548.3; B-402548.4; B-402548.5; B-402548.6

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DIGEST

Protest of cost realism evaluation is sustained where, although agency reasonably determined that protester had failed to adequately support its proposed substantial reduction in labor rates relative to those under its incumbent contract, the extent of the agency's resulting upward adjustment in the labor rates was unreasonable.

DECISION

MPRI, Division of L-3 Services, Inc., of Alexandria, Virginia, and LINC Government Services (LGS), of Hopkinsville, Kentucky, protest the award of a contract by the Department of the Army, U.S. Army Materiel Command, to DynCorp International, LLC, of Falls Church, Virginia, under request for proposals (RFP) No. W91CRB-09-R-0009, for Combined Security Transition Command-Afghanistan (CSTC-A), Afghanistan Ministry of Defense (MoD), and Afghan National Army (ANA) mentoring and program support. The protesters challenge the evaluation of proposals.

We sustain MPRI's protest and deny LGS's protest.

The solicitation contemplated the award of a cost-plus-fixed-fee contract, with a 2-month phase-in, a base period of 2 years, and 1 option year, for the services of qualified personnel to provide dedicated in-depth mentoring, training, subject matter expertise, and programmatic support to CSTC-A staff and the Afghan MoD for the purpose of assisting the MoD and associated Afghan National Army (ANA) forces in assuming full responsibility for their own security needs. Specifically, the solicitation statement of work (SOW) required the contractor to provide personnel to augment military personnel in the Combined Training Assessment Group in assisting ANA in developing programs of instruction; support Task Force Phoenix in mentoring ANA corps and division headquarters; "develop the positions of Minister of Defense, the 1st Deputy Minister, the Chief of the General Staff, the Vice Chief of the General Staff, and the Director of the General Staff and support the individual[s] in the execution of [their] duties"; and mentor and support the ANA in such areas as logistics, intelligence, personnel, military medicine, strategy and policy, operations and communications. SOW § VI. In total, the SOW provided for the contractor to provide 275 staff in 5 skill levels or categories, including senior mentor (8 staff), mentor (128), subject matter expert (32), senior trainer (30), and trainer (77), each with specified minimum educational and experience qualifications.

Award was to be made on a "best value basis" considering four evaluation factors: (1) capability (with subfactors for key personnel, management plan, technical approach, quality control and transition plan); (2) performance risk, under which the offeror's past performance was to be evaluated; (3) small business participation; and (4) cost. The capability factor was significantly more important than the remaining factors combined, while the non-cost factors, when combined, were significantly more important than cost.

Five proposals were received. Based on the initial proposals and offerors' oral presentations, the results of the evaluation for the awardee and the two protesters here, were as follows:

	DynCorp	**MPRI**	**LGS**
CAPABILITY	Excellent	Acceptable	Good
Key Personnel	Excellent	Acceptable	Excellent
Management	Excellent	Acceptable	Good
Technical Approach	Excellent	Excellent	Acceptable
Quality Control	Excellent	Good	Good
Transition	Good	Good	Good
PERFORMANCE RISK	Low	Low	Low
SMALL BUSINESS	Low	Moderate	Moderate
PROPOSED COST	$[REDACTED]	$[REDACTED]	$[REDACTED]
EVALUATED COST	$249.1 million	$212.7 Million	$235.7 million

Source Selection Decision (SSD) at 2, 8; Source Selection Evaluation Board (SSEB) Report at 3.

DynCorp's proposal was determined to be excellent under the capability evaluation factor. DynCorp, whose experience included contracts to mentor and advise the Iraq Ministries of Defense and Interior, and Iraq Counterterrorism Task Force (Multi-National Security Transition Command-Iraq (MNSTC-I) contract), the Afghanistan national, border, and civil order police (CIVPOL Afghanistan Civilian Advisor Support (CIVPOL-A)), and Iraqi civil police (CIVPOL Iraq Civilian Advisor Support (CIVPOL-I)), received an excellent rating under key personnel on the basis that the "experience of its key personnel in similar environments in Iraq, and those with experience in Afghanistan, indicates that it has a strong understanding of the problems that will be faced supporting CSTC-A." SSD at 4. For example, the agency noted that DynCorp's proposed project manager (PM) was the PM for the DynCorp's MNSTC-I Iraqi security forces mentoring contract, while the caliber of DynCorp's key personnel overall significantly exceeded the requirements as clearly shown through "a career progression in their resumes highlighting their relevant experience." Id.

DynCorp's proposal likewise received an excellent management plan rating based on the finding that its approach offered such strengths as a demonstrated ability to staff the contract (as shown by a letter of intent, furnished during the oral presentation) for every position under the SOW and its partnership with a recruiting firm; a [REDACTED]. DynCorp's excellent technical approach rating was based on its demonstrating how it would meet the SOW requirements for each staff section; its linking key personnel and their relevant experiences to specific staff functions; and its highlighting experience and successes in similar missions in Iraq, Afghanistan and Liberia, thereby demonstrating an understanding of and ability to accomplish the CSTC-A mission. DynCorp's excellent quality control rating was based on its offering a [REDACTED] and approach to continuously improving performance by systematically measuring and analyzing various performance metrics. Finally, DynCorp's good transition plan rating was based in part on its having a transition team ready to deploy within 72 hours of notice to proceed.

MPRI is the incumbent contractor providing these services. While MPRI's proposal initially received an overall good rating under the capability factor, as well as good ratings under the key personnel and management plan subfactors, these ratings were ultimately downgraded to acceptable on the basis of agency concerns arising from MPRI's proposal of a significant reduction in direct labor rates relative to those under its incumbent contract. In this regard, the Army determined that "[a]ll proposed [MPRI] Key Personnel have significant experience in Muslim environments, and they possess knowledge of the CSTC-A mission." SSD at 8. Further, while the agency questioned under the management plan factor MPRI's proposal to use five of the eight senior mentors as only group leads, rather than in a dual-hatted capacity that would also use them to mentor Afghan officials, the agency nevertheless initially rated MPRI's management plan as good. However, MPRI proposed to reduce its direct labor rates from the current rates under its incumbent contract by between [REDACTED]% percent (for 8 senior mentors) and [REDACTED]% (for 126 mentors), resulting in an overall weighted average reduction of approximately [REDACTED]%. Joint Agency/DynCorp Comments, May 24, 2010, attach. 6. Although MPRI in its proposal generally attributed its proposed reduction in compensation to "updating salaries based on the current market conditions," MPRI Cost Proposal at IV-3, the Army determined that MPRI had "grossly underestimated" its labor costs such that a "direct labor cost growth of approximately [REDACTED]% would occur" as MPRI was forced to increase its labor compensation to the current levels under its incumbent contract. SSD at 8. As noted above, not only did the agency adjust MPRI's evaluated costs upward to account for the expected cost growth in this regard, but in addition, the agency downgraded MPRI's proposal under the capability evaluation factor on the basis that "any attempt by MPRI to execute its Capability proposal for the Costs it proposed" would result in MPRI experiencing "high turnover, a lack of qualified personnel, and/or be[ing] forced to work with personnel of lesser qualifications than those proposed," resulting in a "high risk of performance disruptions, significant lapses in quality of performance, or outright performance failure." SSD at 8.

The downgrading of MPRI's proposal under the key personnel and management plan subfactors resulted in the overall reduction to acceptable under the overall capability factor. MPRI's proposal otherwise received an excellent rating under the technical approach subfactor on account of its exhibiting a "clear understanding of the CSTC-A mission" and including a clear description of how MPRI would perform the SOW; a good rating under the quality control subfactor (notwithstanding the lack of a dedicated quality control manager) on account of such strengths as its tailored quality control process measuring individual and program performance, weekly activity reports to CSTC-A allowing rapid resolution of problem areas, and an annual work plan for each employee and section; and a good rating under the transition subfactor. SSD at 8-9; SSEB Report at 27-31.

LGS's proposal received an overall good rating under the capability factor. LGS's proposal received an excellent rating under the key personnel subfactor on account of the experience of its key personnel in similar environments in Iraq and in Afghanistan, including, for example, its program manager, a retired general officer with two combat tours in Iraq. While LGS's proposal received a good rating under the management plan subfactor on account of such strengths as the program manager being empowered to make decisions and commit corporate resources and a [REDACTED], it received only an acceptable rating under the technical approach subfactor as a result of an evaluated failure to adequately describe its process for mentoring Afghan personnel, substituting instead an over-reliance on prior military experience. LGS's proposal also received good ratings under the quality control subfactor, on account of its [REDACTED], and a good rating under the transition subfactor.

All three of these proposals received low performance risk ratings and acceptable small business subcontracting ratings. Although DynCorp's evaluated cost ($249.1 million) was significantly higher than MPRI's ($212.7 million), the source selection authority (SSA) determined that DynCorp's proposal was "vastly superior" under the capability factor, noting in particular the “inherent risk” in MPRI’s proposed reduction in salaries and the fact that five of its eight senior mentors will serve only as team leaders and not also as mentors to Afghan officials. The SSA determined that these considerations outweighed MPRI’s lower cost. SSD at 18-20. Likewise, the SSA determined that DynCorp’s superiority under the capability factor, including a strong corporate knowledge of and experience in similar mentoring, in contrast to LGS’s over-reliance on its leaders’ military background, and DynCorp’s existing relationship with its subcontractors, offset its higher cost. SSD at 16-17. The agency thus made award to DynCorp, following which MPRI and LGS filed these protests challenging the evaluation.

DISCUSSION

In reviewing protests relating to an agency’s evaluation of proposals, we will not reevaluate the proposals; rather, we will review the record to ensure that the evaluation was consistent with the terms of the solicitation and applicable statutes and regulations. Dell Mktg. LP, B-400784, Jan. 27, 2009, 2009 CPD ¶ 35 at 3. We have considered all of MPRI’s and JGS’s arguments and find that only MPRI’s challenge to the evaluation of its labor rates furnishes a basis upon which to question the award to DynCorp. We discuss the protesters’ principal arguments below.

Labor Rates

MPRI challenges the agency’s cost realism analysis, which resulted in an upward adjustment in its proposed labor rates.

When an agency evaluates proposals for the award of a cost-reimbursement contract, an offeror’s proposed costs are not considered controlling because, regardless of the costs proposed, the government is bound to pay all actual, allowable costs. Federal Acquisition Regulation (FAR) §§ 15.305(a)(1); 15.404-1(d). Consequently, an agency must perform a cost realism analysis to determine the extent to which an offeror’s proposed costs represent what the contract should cost, assuming reasonable economy and efficiency. FAR § 15.404-1(d)(2); Information Ventures, Inc., B-297276.2 et al., Mar. 1, 2006, 2006 CPD ¶ 45 at 7; Hanford Envtl. Health Found., B-292858.2, B-292858.5, Apr. 7, 2004, 2004 CPD ¶ 164 at 8-9. An agency’s cost realism analysis requires the exercise of informed judgment, and we will review this judgment only to see that it was reasonable. Information Ventures, Inc., supra; Hanford Envtl. Health Found., supra. While a realism analysis need not achieve scientific certainty, the methodology employed must provide some measure of confidence that the agency’s conclusions about the most probable costs under an offeror’s proposal are reasonable and realistic. Information Ventures, Inc., supra; see Metro Mach. Corp., B-295744; B-295744.2, Apr. 21, 2005, 2005 CPD ¶ 112 at 10-11. Here, we find that the Army’s cost realism analysis was not reasonable, and that it resulted in an excessive upward adjustment to MPRI’s proposed labor rates.

The record shows that the agency initially reviewed offerors' proposed labor rates for discrepant rates by comparing them to a range of rates for each position calculated based on one standard deviation (OSD) from the average of the five offerors' proposed rates for the position. The agency then further reviewed the rates based on the circumstances of each offeror, adjusting some, but not all, of the rates outside the range, as well as some, but not all, of the rates within the range. The proposed and evaluated rates for the first contract year are set forth below:

	Senior Mentor (8 staff)	**Mentor (128 staff)**	**Subject Matter Expert (32 staff)**	**Senior Trainer (30 staff)**	**Trainer (77 staff)**
MPRI Proposed/ Evaluated	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
DynCorp Proposed/ Evaluated	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
LGS Proposed/ Evaluated	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Offeror A Proposed/ Evaluated	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Offeror B Proposed/ Evaluated	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Average Proposed	$35.49	$31.49	$29.65	$27.83	$25.72
OSD Range	$33.02-37.97	$28.51-34.46	$27.17-32.13	$24.99-30.66	$23.07-28.38

Cost Realism and Price Analysis Report at 3-15.

As shown by the chart, MPRI's proposed labor rates for [REDACTED] of the labor categories ([REDACTED]) were lower than the OSD range the agency considered realistic, accounting for [REDACTED] of 275 required staff as specified in the SOW. MPRI attributed the rate reduction--on average approximately [REDACTED] percent as compared to its incumbent contract--to "updating salaries based on the current market conditions." MPRI Cost Proposal at IV-3. Based on its realism analysis, the agency determined that the reduction was not justified and adjusted MPRI's rates for all five labor categories upward to the rates under MPRI's current Afghanistan mentoring contract. This actually left three of the five resulting rates higher than the OSD range.

Likewise, notwithstanding that all of DynCorp's proposed rates were within the OSD range, the Army adjusted the rates for all five categories--four upward and one downward--to the levels under DynCorp's MNSTC-I contract (for mentoring of Iraq security forces), which the agency determined to be similar "in customer, scope, and function to the CSTC-A effort." Cost Realism and Price Analysis Report at 7. While LGS's proposed labor rates for [REDACTED] labor categories were above the OSD range, all were accepted without modification for purposes of the cost realism evaluation on the basis that "LGS's hourly wages are competitive and are held to be sufficient." Id. at 8. As for Offeror B, "[n]o exceptions were taken to the rates proposed by [Offeror B]. In its common labor categories, all rates are well within the standard deviation range." Id. at 14. Finally, although four of Offeror A's five proposed rates fell within the OSD range, its rates were adjusted upward to the levels under MPRI's current contract based on the indication in its proposal that Offeror A "expect[ed] to recruit most, if not all, incumbents, because we will offer to match their current compensation if higher than proposed." Id. at 4.

MPRI asserts that the agency unreasonably failed to consider whether MPRI could achieve its proposed rates, and that the adjustment unreasonably increased MPRI's rates above the OSD range and the rates calculated for other offerors.

As an initial matter, we find the agency's rejection of MPRI's proposed labor rates as unsupported to be reasonable. An offeror has the burden of submitting an adequately written proposal, and it runs the risk that its proposal will be evaluated unfavorably when it fails to do so. Recon Optical, Inc., B-310436, B-310436.2, Dec. 27, 2007, 2008 CPD ¶ 10 at 6. MPRI's proposal generally attributed the [REDACTED]% reduction in its incumbent labor rates to "current market conditions," MPRI Cost Proposal at IV-3, but included no information regarding current market conditions. Further, MPRI's proposed rates not only were significantly lower than its current rates for the same work, but also were significantly lower (by a weighted average of approximately [REDACTED]%) than the rates under DynCorp's MSNTC-I contract (which, as noted, the agency considered to be similar to the current requirement). Finally, MPRI's proposed rates were lower than the average of all offerors' proposed rates for [REDACTED] labor categories; lower than the OSD range for [REDACTED] labor categories, accounting for [REDACTED] of 275 required staff; lower than all of the other proposed rates for the [REDACTED] labor categories; and lower than [REDACTED] of the other proposed rates for [REDACTED].

While we find that the agency reasonably rejected MPRI's proposed labor rates as unrealistc, we agree with MPRI that the extent of the resulting upward adjustment in the rates was unreasonable. In this regard, we review an agency's conclusions about the most probable costs under an offeror's proposal in view of the cost information reasonably available to the agency at the time of its evaluation. Information Ventures, Inc., supra; see Metro Mach. Corp., supra. In increasing MPRI's labor rates to the level under its current contract, thereby rejecting any reduction, the agency's realism evaluation assumed rates for MPRI that were higher than the average proposed rate for each of the labor categories; higher than the OSD range for three of the five labor categories; higher than the rates proposed by any offeror for three of the labor categories; and higher than the rates proposed by three of the other offerors for the remaining two categories. The adjusted rates for MPRI also were higher than the rates for three of the five labor categories under DynCorp's similar MSNTC-I contract, which rates DynCorp itself proposed to reduce for this procurement. In some instances, the adjustment left MPRI's rates significantly higher than these other reference points; for example, for the mentor category (128 of 275 required staff), the adjusted rate for MPRI was $[REDACTED], while DynCorp's proposed rate was $[REDACTED] and its MNSTC-I contract rate was $[REDACTED], the average proposed rate was $31.49, and the OSD range was $28.51-$34.46.

The significance of these reference points in determining the realism of MPRI's evaluated rates is highlighted by testimony at the hearing conducted by our Office in this matter, indicating that the SSA and the agency cost analyst performed no analysis of trends in compensation for foreign nationals in Afghanistan and, indeed, were unaware of the rates currently being paid (including those under DynCorp's civilian police mentoring contract) in Afghanistan other than those under MPRI's incumbent contract. Transcript (Tr.) at 78-82, 94, 494-96, 508. In this regard, when asked what the most probable labor rates would be for foreign nationals in Afghanistan, the cost analyst responded that "competition generally dictates what a reasonable price is," that the "market rates" were determined by competition, and that the average of the rates proposed by the five offerors thus represented "a reasonable starting point." Tr. at 514-16, 558-60. The cost analyst then went on to state that MPRI's current contract rates did not represent "the market rates." Tr. at 513. Further, testimony by the chairman of the SSEB (a senior mentor in Afghanistan)--that the offerors were expecting to draw their staff from "a limited number of people, some [of whom] are already doing the same work in Afghanistan, some [of whom] were doing the same work in Iraq . . . ," Tr. at 579-80, 587-88--suggests that there would be no reason to expect widely disparate rates among offerors, since they all are drawing from the same pool of potential employees. We conclude that the record does not support the magnitude of the upward adjustments to MPRI's proposed labor rates, and that the cost evaluation therefore was unreasonable.

MPRI also challenges the downgrading of its technical proposal under the capability factor based on the cost evaluation conclusions. Again, the Army determined that MPRI had "grossly underestimated" its labor costs such that a "direct labor cost growth of approximately [REDACTED]% would occur" as MPRI was forced to increase its labor compensation to the levels under its current contract, with the result that MPRI would experience "high turnover, a lack of qualified personnel, and/or be forced to work with personnel of lesser quality than those proposed." SSD at 8. We agree that the technical evaluation was flawed. While it may be that any reduction in compensation would lead to some additional turnover, it is reasonable to assume that the degree to which MPRI's rates were deemed inadequate determined the extent to which its proposal was downgraded under the capability factor. Thus, since we have found that the inadequacy of MPRI's rates was unreasonably exaggerated in the evaluation--as reflected in the excessive increase in MPRI's proposed rates--we also find that the downgrading of MPRI's technical proposal based on the same flawed cost evaluation results likewise was unreasonable.

We will sustain a protest based on our finding of an evaluation deficiency only where the protester demonstrates a reasonable possibility that it was competitively prejudiced, that is, that, but for the agency's actions, it would have had a substantial chance of receiving the award. Parmatic Filter Corp., B-285288.3, B-285288.4, Mar. 30, 2001, 2001 CPD ¶ 71 at 11; see Statistica, Inc. v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996).

The parties have offered alternative methodologies for ascertaining the extent to which MPRI was prejudiced by the agency's unreasonable cost evaluation. The agency and DynCorp suggest that any new adjusted rates should be based on the average of the proposed rates for each labor category. The agency and DynCorp go on to assert that, if such an approach were adopted, DynCorp's evaluated rates--which were based on its MNSTC-I contract rates, which DynCorp indicated in its proposal were excessive for this procurement--likewise should be adjusted. According to the agency and DynCorp, this approach would increase MPRI's evaluated cost advantage by less than $[REDACTED] million--from approximately $36.4 million ($212.7 million for MPRI versus $249.1 million for DynCorp) to approximately $[REDACTED] million ($[REDACTED] million for MPRI versus $[REDACTED] million for DynCorp), Joint Agency/DynCorp Comments, May 24, 2010, at 4-5--and would not have a material impact on the evaluation or source selection.

MPRI, on the other hand, asserts that the extent of prejudice is best captured by a calculation based on accepting MPRI's proposed rates for senior mentor and trainer--since they fell within the OSD range--and adjusting the rates for the remaining three categories upward to the low end of the OSD range. MPRI notes, in this latter regard, that the proposed rates for LGS's subcontractors that fell outside the OSD range were adjusted to the low end of the range. MPRI further asserts that there is no basis for adjusting DynCorp's evaluated rates, since there has been no showing that it was unreasonable for the agency to rely on DynCorp's MNSTC-I contract rates rather than its lower proposed rates (for four of the labor categories). MPRI calculates that this approach--based on a revised evaluated cost of $[REDACTED] million for MPRI, and DynCorp's originally evaluated $249.1 million--would increase its cost advantage to approximately $[REDACTED] million. MPRI Comments, May 24, 2010, at 4-11.

Here, only by accepting the agency's material reevaluation of the cost proposals and declining to accord any weight to the protester's alternative methodology could we conclude that there was no substantial probability of prejudice. However, while in reviewing protests we will take into account post-protest explanations that provide a detailed rationale for contemporaneous conclusions, we generally give little or no weight to reevaluations and judgments prepared in the heat of the adversarial process. Navistar Defense, LLC; BAE Sys., Tactical Vehicle Sys. LP, B-401865 et al., Dec. 14, 2009, 2009 CPD ¶ 258 at 6; Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15. There is no basis for according any significant weight to the agency's reevaluation here, given the possibility and the appearance that the agency may have selected its alternative methodology to ensure no material impact on the original evaluation results. In any case, the agency's position fails to take into account our finding that the flaws in the cost evaluation resulted in an unreasonable evaluation of MPRI's technical proposal. Accordingly, we conclude that MPRI was prejudiced by the agency's actions and sustain the protest on this basis.

PERFORMANCE RISK

LGS and MPRI maintain that DynCorp's proposal should have been evaluated less favorably under the performance risk factor.

We will review a past performance evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and applicable statutes and regulations. Guam Shipyard, B-311321, B-311321.2, June 9, 2008, 2008 CPD ¶ 124 at 3. The evaluation of past performance, by its very nature, is subjective; a protester's disagreement with the agency's judgment does not demonstrate that those judgments are unreasonable. SDV Telecomms., B-279919, July 29, 1998, 98-2 CPD ¶ 34 at 2.

The evaluation of DynCorp's proposal as offering low performance risk was reasonable. In this regard, the solicitation provided for the agency to "conduct a Performance Risk assessment based on the quality of the offeror's recent (within the past 3 years) and relevant past performance as well as proposed major subcontractors, as it relates to the probability of successful accomplishment of the required effort." RFP § M, Factor 2, at 66. Offerors were required to identify a minimum of three and a maximum of five contracts; describe for each how the effort is "similar to the requirements of [the] solicitation," the objectives achieved, the reasons for any shortcomings, and any corrective action taken to avoid reoccurrence; and furnish a past performance questionnaire (PPQ) "to the Government/commercial contracting activity and Government/commercial technical representative responsible for the past/current contract. (One (1) Point of Contact (POC) and one (1) contract per questionnaire.)" RFP § L, Factor 2, at 58.

DynCorp's proposal cited five prior contracts: the current MNSTC-I contract; the current CIVPOL-A contract with the Department of State (DOS), under which DynCorp provides approximately 615 mentors, advisers and trainers to support the Afghan national, border and civil order police; the current CIVPOL-I DOS contract to mentor Iraqi civil police, under which DynCorp provides approximately 700 advisors; the current DOS contract to mentor Palestinian Authority security forces; and the current DOS contract to implement the African Peacekeeping Force Liberia Security Sector Reform program. Although the record indicates that DynCorp requested PPQs for all five of the contracts, see Declaration of DynCorp Director of Business Development, May 21, 2010, the two DOS points of contact identified for the CIVPOL-A and CIVPOL-I contracts did not return completed PPQs.

As discussed, DynCorp's MNSTC-I contract was viewed by the agency as most relevant to the requirement here; indeed, the contracting agency for the MNSTC-I contract described it as identical to the requirement here. MNSTC-I PPQ Response. DynCorp's proposal cited its accomplishments under that contract, and also cited two letters of concern regarding a delay in the contract award, which had resulted DynCorp's losing 90% of its job candidates and had caused initial problems in staffing the contract effort. According to DynCorp, it resolved the staffing problems through aggressive recruitment efforts. Despite these staffing issues, the contracting agency's PPQ response for this contract characterized DynCorp's overall performance as excellent or very good (4 excellent, 18 very good, and 2 satisfactory ratings) under nearly all PPQ evaluation categories; stated that the contract had "low administrative issues" and that the agency was "[v]ery pleased with the management of this contract and its responsiveness to [the government's] changing needs"; and indicated that the agency would recommend DynCorp for other contracts. MNSTC-I PPQ Response.

DOS returned very favorable PPQs for DynCorp's Liberia and Palestinian contracts. Regarding the former, DOS primarily rated DynCorp's performance as excellent (20 excellent and 5 very good ratings), stating that DynCorp performed "all tasks in the SOW in an extremely professional manner" and "under budget." Liberia Security Sector Reform PPQ. Likewise, regarding the latter, while DynCorp described initial difficulties in both recruiting mentors with the exact skill set desired by the customer and in rapidly processing donated equipment, DOS acknowledged no more than "small problems [which] were immediately rectified"; indicated that DynCorp had performed "well"; and specifically rated its performance almost exclusively very good (22 very good and 1 satisfactory rating). Palestinian Authority Mentoring PPQ.

DOS POCs for DynCorp's CIVPOL-A and CIVPOL-I contracts did not respond to DynCorp's request to return a PPQ. However, DynCorp's proposal described the scope of the contracts, and its accomplishments and shortcomings in performing. Specifically, for its CIVPOL-A contract, DynCorp acknowledged that: (1) it had removed three senior managers as a result of customer concern that their management style was impairing the mission, but explained that it had immediately replaced the managers, instituted a new leadership training course, and instituted a 360-degree program for the evaluation of managers by peers and subordinates; and (2) had experienced two drug-related deaths over the past year, but explained that it had increased drug testing procedures and was offering comprehensive psychological services in the event that staff needed support to cope with work challenges. DynCorp Performance Risk Proposal at 7-8. For its CIVPOL-I contract, DynCorp acknowledged that: it had removed four managers as a result of customer concern that their management style was impairing the mission, but explained that it had immediately replaced the managers, instituted a new leadership training course and instituted a 360-degree evaluation program for managers; and (2) had initial trouble implementing a new computer system mandated by the customer, but explained that it had immediately met with the customer's technical staff to develop a solution, with the result that installation of the new network was now ahead of schedule. Id. at 9.

The Army assigned DynCorp a low performance risk rating based on its finding that DynCorp had performed contracts similar in size, scope and complexity to the requirement here; in particular, that it had trained senior leaders from 11 different ministries and agencies under its MNSTC-I contract; that it has had a "permanent presence in Afghanistan since 2003," including 5 years mentoring and training the Afghan police; and that its performance had been rated as either exceptional or very good. Performance Risk Assessment Report, DynCorp.

The protesters primarily assert that the agency failed to consider the problems under DynCorp's contracts, and focus in particular on the agency's failure to receive a PPQ for the CIVPOL-A contract.

The evaluation was unobjectionable. As discussed, the agency was aware that DynCorp had encountered problems under its prior contracts. While DynCorp acknowledged shortcomings in its performance under certain contracts, it also explained the measures taken to address the problems. (For example, to address possible concerns about the initial staffing problems under some of its contracts, DynCorp's proposal indicated that it had obtained letters of intent for all 275 required positions, DynCorp Capability Proposal at 1, and it furnished copies of the letters of intent during its oral presentation.) The PPQs received by the agency confirmed that DynCorp's acknowledged shortcomings were not viewed as significant by the contracting activities in question, and that DynCorp instead was considered to be a very good or excellent contractor. The agency ultimately determined that the information DynCorp provided, along with the PPQ ratings, sufficiently supported a low risk rating. The fact that the agency did not receive a PPQ for the CIVPOL-A contract did not render the evaluation unreasonable; there is no requirement that an agency consider all references in evaluating an offeror's past performance. Sunrise Med. HHG, Inc., B-310230, Dec. 12, 2007, 2007 CPD ¶ 7 at 5. Here, the information available to the agency demonstrated that DynCorp had successfully performed other mentoring contracts in Muslim countries, including the MNSTC-I contract, and had been performing in Afghanistan for a number of years.

We conclude that there is no basis for questioning DynCorp's low performance risk rating.[1]

RECOMMENDATION

We sustain MPRI's protest on the grounds that the cost and technical evaluations were unreasonable, as discussed above. We recommend that the agency reevaluate the proposals using a methodology that reasonably accounts for the likely cost for each offeror to staff its proposed capability approach. If a proposal other than DynCorp's is selected for award, the agency should terminate DynCorp's contract for convenience, and make award to that offeror, if otherwise appropriate. In addition, we recommend that MPRI be reimbursed the costs of filing and pursuing its protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1) (2010). The protester should submit its certified claim, detailing the time expended and costs, incurred, directly to the contracting agency within 60 days of receiving this decision. 4 C.F.R. § 21.8(f)(1).

MPRI's protest is sustained. LGS's protest is denied.

Lynn H. Gibson
Acting General Counsel

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[1] The protesters point to our decisions holding that some information is simply "too close at hand to require offerors to shoulder the inequities that spring from an agency's failure to obtain and consider information," <u>see</u>, <u>e.g.</u>, <u>Shaw-Parsons Infrastructure Recovery Consultants, LLC; Vanguard Recovery Assistance, J.V.</u>, B-401679.4 <u>et al.</u>, Mar. 10, 2010, 2010 CPD ¶ 77 at 8. However, they have made no showing that there was information here too close at hand for the agency to ignore and that would call into question DynCorp's low performance risk rating.