



Comptroller General  
of the United States  
Washington, D.C. 20548

145-113

## Decision

**Matter of:** United International Engineering, Inc.;  
Morrison Knudsen-Dynamics Research;  
PRC Inc.; and Science Applications  
International Corporation

**File:** B-245448.3; B-245448.4; B-245448.5;  
B-245448.6; B-245448.7; B-245448.8;  
B-245448.9; B-245448.10

**Date:** January 29, 1992

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John F. McCabe, for BDM International, Inc.; Michael A. Gordon, Esq., Holmes, Schwartz & Gordon, for Logicon Eagle Technology; and David P. Metzger, Esq., and John A. Francis, Esq., Davis, Graham & Stubbs, for Interop Joint Venture, the interested parties.  
Herbert F. Kelley, Jr., Esq., Capt. Gerald P. Kohns, Esq., and Gregory A. Lund, Esq., Department of the Army, for the agency.  
David Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Incorporation in solicitation of standard form clause at Federal Acquisition Regulation § 52.215-34, "Evaluation of Offers for Multiple Awards," which contemplates a solicitation under which award of various items is to be made on basis of price, does not require that multiple awards be made on basis of lowest aggregate cost where solicitation specifically requires any award, including multiple awards, to be based upon a cost/technical tradeoff, and cautions that award would "not necessarily be made . . . to the offeror(s) with the lowest most probable cost."
2. Allegation of deficiency in application of agency internal evaluation plan does not alone provide a basis for questioning the evaluation; protest is denied where evaluation is consistent with the evaluation scheme set forth in the request for proposals and is otherwise reasonable.

3. Agency's mechanical application of government estimate of labor rates, exempt from the Service Contract Act, to determine evaluated costs for each offeror does not satisfy requirement for an independent analysis of each offeror's proposed costs.

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#### **DECISION**

United International Engineering, Inc. (UIE), Morrison Knudsen-Dynamics Research (MK-DR), a joint venture, PRC Inc., and Science Applications International Corporation (SAIC) protest the Department of the Army's award of cost-reimbursement contracts to Interop Joint Venture, Logicon Eagle Technology, Inc., and BDM Engineering Services Company, under request for proposals (RFP) No. DAEA18-90-R-0004, for support services for the Joint Interoperability Test Center (JITC) at Fort Huachuca, Arizona. The protesters challenge the agency's evaluation of proposed costs and question the failure to make award to the low, technically acceptable offerors. In addition, both UIE and SAIC dispute other aspects of the evaluation of their proposals.

We sustain SAIC's protest against the award to Interop. We deny the remaining protests.

The JITC plans, conducts, and reports on the testing of command, control, communications and intelligence (C3I) equipment and interface standards. The solicitation requested proposals for a cost-reimbursement contract, for a contract period of 1 basic year and 3 option years, to furnish support to JITC in the planning, conducting, evaluating and reporting of C3I testing, the design, development, engineering and acquisition of selected items of equipment and instrumentation, and the operation and maintenance of JITC facilities, including the JITC test facility at Fort Huachuca. The solicitation required offerors to propose 346 man-years of effort, in 45 labor categories, in each contract period; 12 of the categories--junior, "mid" and senior engineers, computer scientists, systems analysts and procedural analysts--accounting for 210 man-years, were exempt from the Service Contract Act.

Clause M-3 of the solicitation, entitled "Basis for Award," provided for award to be made "to the responsible offeror(s) whose proposal(s) represent the best overall value(s) to the Government"; it added that the government "reserves the right to make up to three (3) multiple awards to the offeror(s) who can accomplish the requirements set forth in the solicitation and represent the best overall value to the Government." The solicitation stated that technical qualifications and management were equal in importance, while cost realism and past performance were also equal in importance and each was no more than one-half of the importance

of either technical qualifications or management; it further provided that "the combination of technical, management, cost realism and past performance areas will be significantly more important than most probable cost."

Eleven proposals were received by the December 6, 1990, closing date for receipt of initial proposals and all were included in the competitive range. After written discussions with offerors, the agency requested best and final offers (BAFO).

As set forth below, the agency's Source Selection Evaluation Board (SSEB) evaluated BAFOs under the factors for technical qualifications and management and calculated the most probable cost of each proposal, while the Source Selection Advisory Committee (SSAC) ranked offerors based on these factors, past performance and cost realism:

Offeror	Technical Qualifications Rank (Rating)	Management Rank (Rating)	Most Probable Cost <u>Proposed Cost</u>
BDM	3 (High Acceptable)	1 (High Acceptable)	<u>\$129,978,109</u> \$116,614,936
Logicon	1 (High Acceptable)	2 (Acceptable)	<u>\$131,094,701</u> \$119,212,599
Interop	4 (High Acceptable)	3 (Acceptable)	<u>\$112,432,684</u> \$ 98,586,925
SAIC	2 (High Acceptable)	6 (Acceptable)	<u>\$120,498,330</u> \$106,015,313
PRC	6 (Acceptable)	9 (Acceptable)	<u>\$117,221,344</u> \$102,887,162
MK-DR	10 (Low Acceptable)	4 (Acceptable)	<u>\$ 99,738,606</u> \$ 85,089,053
UIB	11 (Susceptible to Being Made Acceptable)	11 (Low Acceptable)	<u>\$103,757,771</u> \$ 89,121,301

BDM, Logicon, Interop and SAIC were found by the agency to be the "front runners." The SSAC recommended to the Source Selection Authority (SSA) that award be made to BDM and Logicon on the basis of their "clearly superior" proposals; it noted that their proposals had been rated "significantly higher" by the SSEB with respect to technical qualifications and management and that their past performance had been

excellent. Although the SSAC recognized that BDM's and Logicon's most probable cost was somewhat higher, exceeding the revised internal government estimate (\$120 million) by approximately 9.2 percent, it concluded that the overall value of the proposals justified their higher costs.

The SSAC rated Interop's proposal the next highest after BDM's and Logicon's, and "slightly higher" than SAIC's proposal. Although SAIC's proposal was rated "quite close" to Interop's with respect to technical qualifications and management, and the past performance of the two offerors "did not appear to be much different," the SSAC noted that Interop's most probable cost was approximately 7.7 percent less than SAIC's. The SSAC further concluded that Interop's proposed fee structure--an evaluated 0 percent base fee and 10 percent award fee--which was evaluated under one of the five cost realism criteria, was more likely to motivate the contractor to provide superior services than SAIC's proposed fee structure--an evaluated 3 percent base fee and 8 percent award fee. As a result, the SSAC recommended to the SSA that Interop should be selected if a third award was to be made.

The SSA, in turn, determined that the proposals submitted by BDM, Logicon and Interop offered the best overall value. Specifically, the SSA stated that "I accept and adopt the SSAC unanimous recommendation and supporting rationale to award contracts to [BDM, Logicon and Interop]. I agree the additional cost for [BDM, Logicon] is more than offset by the higher quality contained in their proposals. [Interop] represents the next best value to the Government." Upon learning of the resulting awards to BDM, Logicon and Interop, these protests were filed by SAIC, PRC, MK-DR and UIE with our Office.

#### **BEST OVERALL VALUE**

The protesters first contend that the awards were improper because they were based upon an evaluation of the "best overall value," that is, on the basis of a cost-technical tradeoff. Although the protesters acknowledge that clause M-3 of the solicitation provided for a best value analysis, they argue that the solicitation provided for award to the low, technically acceptable offerors where multiple awards were made. Specifically, they point out that the solicitation incorporated by reference the standard form clause at Federal Acquisition Regulation (FAR) § 52.215-34, entitled "Evaluation of Offers for Multiple Awards," which provides that:

"In addition to other factors, offers will be evaluated on the basis of advantages and disadvantages to the Government that might result from

making more than one award (multiple awards). It is assumed, for the purpose of evaluating proposals, that \$500 would be the administrative cost to the Government for issuing and administering each contract awarded under this solicitation and individual awards shall be for the items or combinations of items that result in the lowest aggregate cost to the Government, including the assumed administrative costs."

While the standard clause at FAR § 52.215-34 generally provides for awards to be made that result in the lowest aggregate cost, clause M-3 of the solicitation specifically reserved to the government "the right to make up to three (3) multiple awards to the offeror(s) who can accomplish the requirements set forth in the solicitation and represent the best overall value to the Government." Clause M-3 provided for "best overall value" to be determined based upon the evaluation of technical qualifications, management, cost realism and past performance, as well as most probable cost, and cautioned that award would "not necessarily be made . . . to the offeror(s) with the lowest most probable cost." Thus, clause M-3 clearly and unequivocally required any award, including multiple awards, to be based upon a cost/technical tradeoff, rather than upon the lowest aggregate cost. The standard form clause at FAR § 52.215-34, which contemplates a solicitation under which the award of various line items is to be made on the basis of price, is not relevant to a solicitation such as this where technical considerations are paramount. See Allied-Signal Aerospace Co., B-240938.2, Jan. 18, 1991, 91-1 CPD ¶ 58. Accordingly, the specific express provisions of clause M-3 take precedence over the general language of the standard form clause.

#### UIE EVALUATION (TECHNICAL, MANAGEMENT AND PAST PERFORMANCE)

UIE questions the evaluation of its proposal under the factors for technical qualifications, management and past performance.

The determination of the relative merits of proposals is primarily a matter of agency discretion which we will not disturb unless it is shown to be without a reasonable basis or inconsistent with the evaluation criteria listed in the RFP. See Virginia Technology Assocs., B-241167, Jan. 29, 1991, 91-1 CPD ¶ 80.

As indicated above, UIE was ranked last of 11 offerors with respect to both management and technical qualifications, the two most important evaluation factors (other than most probable cost); with respect to management, its proposal was found to be "low acceptable," while under the factor for

technical qualifications, its proposal was found to be only "susceptible of being made acceptable." UIE was both debriefed on, and, as part of the agency report, furnished a copy of, the agency's detailed evaluation. The evaluation under the factor for technical qualifications listed approximately 19 disadvantages characterized as a "significant deficiency but correctable" and 8 disadvantages characterized as a "correctable deficiency--small impact"; in addition, the evaluation questioned the adequacy of UIE's response to 9 sample tasks.

Notwithstanding the detailed information available to it, UIE failed to substantively respond to most of the perceived disadvantages. With respect to the disadvantages which it does address, UIE has offered only general, repetitive references to large sections of its proposal--e.g., "this was discussed in detail in pages 12 through 20 of our Technical Volume"--which do not refute the agency's specific observations. For example, in response to the agency's determination that it had failed to discuss communications security (COMSEC) requirements, UIE responded by referring to several pages in its proposal; these pages, however, simply stated that COMSEC equipment operation, support, and configuration is a contractor mission, without discussing how UIE would perform that mission. While UIE has responded in more detail to most of the approximately 15 perceived management disadvantages, many of its responses amount to no more than mere disagreement with the agency--e.g., as to whether UIE proposed a sufficient number of key management personnel for the specified level-of-effort. Mere disagreement with the agency evaluation, however, does not demonstrate the unreasonableness of the evaluation. Id.

We find that UIE has not demonstrated that the Army's overall conclusion, that the firm had submitted inadequately written technical and management proposals, was unreasonable.

Although UIE also generally alleges that any failure to adequately address solicitation requirements was the result of the agency's failure to raise the matter during discussions, it neither specifies the alleged inadequacies in discussions nor explains why the wide-ranging discussions held with it, which touched upon nearly every evaluation criteria and sample task, did not afford it a fair and reasonable opportunity in the context of the procurement to identify and correct the central weakness in its proposal, that is, its generalized failure to explain in any depth its proposal approach. See Minigraph, Inc., B-237873.2, May 14, 1990, 90-1 CPD ¶ 470. Likewise, while UIE alleges that the evaluation reflected the agency's prejudice against it as a small (disadvantaged) business concern, there is no indication in the record of bias or bad faith on the part of

evaluators, and UIE offers no such evidence. The solicitation failed to include a 10 percent evaluation preference for small disadvantaged business concerns, and, contrary to UIE's argument, this was not required since award was not based on price and price-related factors, Department of Defense Federal Acquisition Regulation Supplement § 219.7001(a), and does not in itself demonstrate prejudice. Prejudicial motives will not be attributed to contracting officials on the basis of unsupported allegations, inferences, and suppositions as are advanced by UIE. See Avogadro Energy Sys., B-244106, Sept. 9, 1991, 91-2 CPD ¶ 229.

With respect to past performance, the solicitation required offerors to furnish specified information concerning all government contracts within the past 5 years which were similar to the JITC contract; the solicitation advised offerors that it was the "intention" of the contracting officer to contact cognizant contracting officials for purposes of evaluating offerors' performance. Although agency evaluators received favorable assessments regarding some aspects of performance under some UIE contracts--e.g., "very good" management--they also received less favorable assessments for other contracts--e.g., reports that agency personnel had "lost confidence in UIE's ability to properly perform," or that UIE "could have been more aggressive" in pursuing excellence. UIE contends that the agency's documentation misquotes, in part, the oral responses received concerning its performance, mistakenly attributes the cause of performance problems to UIE, includes comments resulting from the bias of contracting officials, fails to fully reflect improvements or the overall quality of performance on the contracts discussed, and is otherwise flawed and incomplete because the agency received reports for only 5 of 20 listed contracts.

Prejudice is an essential element of a viable protest, and where no prejudice is shown or is otherwise evident, our Office will not disturb an award, even if some technical deficiency in the award arguably may have occurred. Merrick Eng'g, Inc., B-238706.3, Aug. 16, 1990, 90-2 CPD ¶ 130. Since UIE was ranked last of 11 offerors with respect to both management and technical qualifications, and therefore had no reasonable chance for award, notwithstanding its lower proposed cost, we find that any deficiency which may have existed in the evaluation of UIE's past performance, one of the least important evaluation factors, did not materially prejudice that offeror.

#### SAIC EVALUATION (MANAGEMENT)

SAIC challenges the evaluation of its proposal under the management factor, essentially arguing that given the weight

assigned to the various management criteria and subcriteria by the agency's internal evaluation plan, its proposal should have been ranked third, not sixth, in this area. SAIC's rationale involves establishing point scores for each criterion and subcriterion of the management factor evaluation. We find that SAIC's point scoring scheme does not account for the differences between proposals as fully explained in the evaluation narrative and reflected in the summary ratings for management, but not necessarily shown by different adjectival ratings for criteria and subcriteria. For example, two proposals might be "acceptable" for the autonomy of their on-site management, but have substantially different advantages and disadvantages in the evaluation of that subcriterion--differences ultimately reflected in the agency's overall evaluation but not reflected in SAIC's point scoring scheme. SAIC has not questioned the underlying narrative evaluation of its proposal under the management factor, and having reviewed the proposals themselves and the evaluation record, we do not find that the agency's evaluation was unreasonable.

#### **MOST PROBABLE COST**

The protesters challenge the Army's most probable cost calculations to the extent they are based upon upward adjustments in labor rates. The Army substantially increased the costs proposed by the three awardees and four protesters in calculating the most probable cost of the offers; the adjustments overwhelmingly resulted from the agency's determination that the proposed direct, SCA-exempt labor rates were too low and the agency's upward adjustment of the rates.

In preparing to evaluate cost proposals, the Army established a series of rate ranges for each of the 12 SCA-exempt labor categories specified in the solicitation. According to testimony given at the hearing on this case, the agency cost/price analyst first calculated rate ranges based upon proposals received for a contract awarded in 1988 to operate the Army's Electromagnetic Environmental Test Facility (EMETF) at Fort Huachuca, and a published salary index for technical specialists. Transcript (TR) at 181-188. (The EMETF plans, conducts and reports on the simulation, modeling, testing, measurement and analysis of electronic systems, with the emphasis upon their electromagnetic compatibility and vulnerability.)

The chairman of the SSEB cost committee testified that he then expanded the ranges based upon three factors. First, he took into consideration the rates under agency contracts supporting the JITC effort at Fort Huachuca. TR at 90-93. Of the nine contracts he consulted, three were awarded by Fort Huachuca, five were awarded by Fort Monmouth,

New Jersey, and one was awarded by the Navy in San Diego, California; all covered services that were encompassed within the current contract effort or were otherwise in support of the JITC mission. Second, the chairman consulted a second salary index for technical specialists, TR at 93-94. Third, he took into consideration the quality of the services desired. The chairman stated that the agency needed "highly sophisticated, highly complex support services" for which the agency anticipated it "might have to pay top dollar"; he agreed that the agency "was striving to seek . . . the very best that was available in the market place." TR at 97, 138-139. Indeed, the chairman testified that he did not believe that the government was "bound to adhere to the qualification requirements" for each labor category as set forth in the statement of work (SOW) when evaluating cost realism, TR at 140; according to the chairman, "the labor qualifications are . . . what the contractor's personnel must meet when and if they win the contract and when and if they bring personnel on board . . . [they] don't have any purpose in the evaluation." By memorandum dated January 16, 1991, the chairman furnished the resulting rate ranges for each SCA-exempt labor category to the cost evaluators "for evaluation purposes"; he instructed them that "if the proposed rate falls BELOW the above ranges, we will make an UPWARD adjustment for evaluation purposes in calculating most probable cost."

During negotiations, the Army advised offerors that many of the proposed direct labor rates for SCA-exempt labor categories "appear to be low"; it did not, however, advise them of the government rate ranges. In their BAFOs, 9 of 11 offerors proposed labor rates below the government ranges, including, among others: BDM, for 11 of 12 SCA-exempt categories; Logicon, 8 categories; Interop, 11 categories; SAIC, 7 categories; PRC, 8 categories; MK-DR, 9 categories; and JIE, 11 categories. Although the chairman of the SSEB cost committee has denied that the January 16 instructions to evaluators required an automatic upward adjustment of proposed rates below the government ranges, and both he and another evaluator testified that any adjustments were made only after consideration of offerors' rationale for the proposed rates, we find that every rate below the government range was adjusted upward to the mid-point of the range. TR at 81-83, 225-226. Proposed labor rates within the ranges, but below the mid-point, were not adjusted upward. TR at 296. For example, the government range for a mid-level systems analyst was \$18 to \$23, with a mid-point of \$20.50; accordingly, while one offeror's (SAIC) proposed rate of \$17.48 was adjusted upward to \$20.50, another offeror's (Logicon) proposed rate of \$18.24 apparently was not adjusted.

The protesters argue that the government labor rate ranges were based on inadequate information and improperly reflected the agency's desire for personnel with qualifications in excess of those required by the solicitation. In addition, they contend that the agency arbitrarily and improperly applied the rate ranges during the cost evaluation without any consideration of an offeror's rationale for its proposed SCA-exempt labor rates.

When an agency evaluates proposals for the award of a cost-reimbursement contract, an offeror's proposed estimated cost of contract performance and proposed fees should not be considered controlling since, regardless of the costs proposed by an offeror, the government is bound to pay the contractor its actual and allowable costs. FAR § 15.605(d); see Kinton, Inc., 67 Comp. Gen. 226 (1988), 88-1 CPD ¶ 112. 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. - Federal, 64 Comp. Gen. 71 (1984), 84-2 CPD ¶ 542. Because the contracting agency is in the best position to make this cost realism determination, our review is limited to determining whether the agency's cost realism analysis is reasonably based and not arbitrary. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976) 76-1 CPD ¶ 324; United Equip., Inc., B-245235, Dec. 26, 1991, 91-2 CPD ¶ 580.

As part of the cost realism analysis, an agency may compare proposed labor rates with the rates under recent competitively awarded contracts for similar efforts. Carrier Joint Venture, B-233703, Mar. 13, 1989, 89-1 CPD ¶ 268; see Anamet Laboratories, Inc., B-241002, Jan. 14, 1991, 91-1 CPD ¶ 31; A. T. Kearney, Inc., B-237731, Mar. 19, 1990, 90-1 CPD ¶ 305. Here, notwithstanding the chairman of the SSEB's testimony that the agency was seeking "the very best" personnel, and was not "bound to adhere to the qualification requirements" set forth in the solicitation for each labor category, the record does not establish that the rate ranges in fact were based on qualification requirements significantly differing from those in the solicitation or on inadequate information. Rather, the record shows that the agency compared proposed labor rates for SCA-exempt labor categories with a rate range derived from its experience under the EMAT contract at Fort Huachuca, which includes generally comparable categories of labor proposed for somewhat similar work, and from its experience with work under prior contracts which was encompassed within the current procurement or was otherwise in support of the JITC mission. Although the government rate ranges were not based upon input from the Defense Contract Audit Agency (DCAA), the Army reports that audit assistance in this regard would not be useful because the cognizant DCAA activity for each offeror, while

familiar with the offeror's current rates for work elsewhere, would be unfamiliar with the prevailing rates at Fort Huachuca. TR at 131. In any event, while DCAA audits may be of assistance to a contracting officer in evaluating proposed costs, they are only advisory in nature and are not generally required for a proper cost analysis. Anamet Laboratories, Inc., supra. Accordingly, we find that the rate ranges were based on historical data concerning labor rates for work in support of the JITC mission, and that it was reasonable for the agency to take them into consideration in evaluating cost realism.

While a reasonably derived agency estimate of direct, unburdened labor rates for comparable labor categories, based upon historical experience, can provide an objective standard against which the realism of proposals can be measured, an agency may not mechanically apply that estimate to determine evaluated costs. It may well be that in some instances an estimate has limited applicability to a particular company, as for example where such company currently employs comparable personnel in the same geographic area for a different combination of wages and benefits. In those instances, any absolute reliance upon estimates could have the effect of arbitrarily and unfairly penalizing the firm and depriving the government of the benefit available from such a firm. Accordingly, in order to undertake a proper cost realism evaluation, the agency must independently analyze the realism of an offeror's proposed costs based upon its particular approach, personnel and other circumstances. See Allied Cleaning Servs., Inc., 69 Comp. Gen. 248 (1990), 90-1 CPD ¶ 275 (realism of proposed prices); Kinton, Inc., supra; cf. Range Technical Servs., 68 Comp. Gen. 81 (1988), 88-2 CPD ¶ 474.

As indicated above, agency cost evaluators testified that notwithstanding the facts that the January 16 memorandum seemingly called for the automatic upward adjustment of proposed rates which were below the government rate ranges, and that every such below-range rate was adjusted, they in fact first considered each offeror's rationale for its rates before making any adjustments. We find no basis upon which to question this testimony with respect to the proposals submitted by PRC, UIE and MK-DR, since we conclude that these proposals failed to demonstrate that the offeror's particular circumstances were such as to render application of the government rate ranges unreasonable. In response to the agency's statement during negotiation that many of their SCA-exempt rates appeared low, PRC and UIE explained that the rates reflected the current average salaries they paid to employees with comparable qualifications. They did not, however, list or otherwise document such salaries. Nor did they explain why they believed that salaries for work elsewhere were indicative of the salaries that they would be

required to pay for work to be performed at Fort Huachuca. Although UIE also included with its proposal a small number of resumes of individuals to whom it apparently had made "contingent offers of employment," it redacted the name of each individual and documented neither the acceptance of any such offer nor the agreed upon salary. Likewise, while MK-DR generally referred to a salary survey for the nearby Tucson, Arizona area, it did not include it in the proposal.

With respect to SAIC, however, the agency failed to independently analyze SAIC's justification for its proposed SCA-exempt labor rates. The agency cost evaluator for SAIC's proposal testified that SAIC did not adequately support its proposed labor rates. TR at 232, 258. We find that SAIC in fact explained in its proposal that its rates were based upon the average rates for personnel in comparable labor categories under its current Information Mission Area Support (IMA) contract at Fort Huachuca, pursuant to which it provides information systems engineering, integration, systems analysis, test, and installation support. Although there has been an increase in the labor rates under the IMA contract over those initially proposed, our review of SAIC's proposed JITC rates confirms that they are generally comparable to the current (May 1991) rates for the IMA labor categories.

Furthermore, contrary to the Army's view, we do not find from a comparison of the respective SOWs that the IMA requirements are less technically demanding than, and thus not comparable to, the JITC requirements. Indeed, the minimum personnel qualifications requirements in the two SOWs suggest the contrary; for nearly two-thirds of the comparable labor categories, the IMA SOW imposes higher education/experience requirements than does the JITC SOW.

As the Army notes, SAIC did not include in its proposal the current IMA rates. However, we do not view this as a reason for not considering the IMA rates in the cost evaluation. The IMA contract was for services at Fort Huachuca and was available to the contracting officials there. Indeed, the Army accepted the overhead rate under the IMA contract as a benchmark for the overhead rate proposed under the JITC contract. In our view, given (1) the requirement for a cost analysis; (2) the relevance to this analysis of IMA rates under a substantial, cost-type contract for comparable services at Fort Huachuca; (3) the magnitude of the proposed cost adjustment; (4) the magnitude of the overall JITC contract; and (5) SAIC's reference to the IMA ratio and their ready availability to contracting officials, the IMA rates, we believe the Army was required to consider the IMA rates before adjusting SAIC's proposed labor rates upward. G. Marine Diesel; Phillyship, B-232619; B-232619.2, Jan. 27, 1989, 89-1 CPD ¶ 90. Therefore, we conclude that

the Army has not justified the application of its rate range to SAIC's proposal when that offeror based its proposed rates on a current contract with comparable labor categories performing generally similar work at Fort Huachuca.

Finally, to the extent that the Army relied on its own estimates, we find that the consequent adjustments to offerors' proposed labor rates for cost realism purposes were arbitrary and lacking in support. Again, the agency adjusted proposed labor rates outside the government rate range to the mid-point of the range, but did not adjust upward proposed labor rates in the lower half of the range, even when those were at the bottom of the range. This resulted in significant disparities in the evaluation of particular offerors with respect to particular labor categories. For example, as noted above, one offeror's proposed rate of \$17.48 for a mid-level systems analyst was adjusted upward to the range mid-point of \$20.50, while another offeror's rate of \$18.24 was not adjusted. Of course, an offeror's particular proposed approach or personnel or other circumstances may render application of the agency's estimate unreasonable, justifying a different evaluated rate. In the absence of such information, we believe that the agency should have evaluated each offeror's proposed costs based upon the same best estimate of the likely labor rates. Here, although the agency established a range of rates for each labor category, all adjustments were made to the mid-point of each range; in effect, the mid-points represented the agency's best estimate of likely rates for the labor categories. Therefore, the rates of each offeror who did not justify its proposed rates should have been adjusted to the mid-point of the rate range; thus, in the example above, if both the \$17.48 and \$18.24 rates were unjustified, then both should have been adjusted to \$20.50. Since the Army has not argued, nor is it otherwise evident, that the disparities resulted from offerors' particular circumstances, we consider such disparate treatment unreasonable.

The Army and the awardees maintain that whatever deficiencies existed in the cost realism evaluation, the evaluation was not prejudiced because, in their view, any adjustments to the proposed labor rates, if made, would not have been in line for award. They contend that the proposed costs of all offerors were reduced by a somewhat comparable amount, ranging from an adjustment of \$14,649,553 (16.4 percent) for UIE to an adjustment of \$11,882,102 (10 percent) for Logicon. Noting that the combination of "quality" evaluation factors--technical qualifications, management, past performance, and cost realism--was significantly more important than most probable cost, they point out that the agency rated the BDM and Logicon proposals "significantly higher" with respect to

the technical qualifications and management factors, and that SAIC's management approach and fee structure were viewed as less advantageous than Interop's. In addition, they point to the testimony of the SSA that neither PRC nor UIE would have been in line for award even if their costs had not been adjusted while other offerors' costs were adjusted upward. The SSA testified that PRC was "far below the primary contenders"; with respect to UIE, he stated that "based on their performance on the technical and the management and other factors, there would be no way in the world that . . . they could perform that work as well as any of the other offerors." TR at 540, 542. With respect to SAIC, the SSA testified that rather than make award to the firm, he "probably" would not make a third award, that is, not make an award to either SAIC or Interop. TR at 547.

Where, as here, an agency clearly violates procurement requirements, we will resolve any doubts concerning the prejudicial effect of the agency's action in favor of the protester, General Protection Sys., 70 Comp. Gen. 345 (1991), 91-1 CPD ¶ 308, and the reasonable possibility of prejudice is a sufficient basis for sustaining the protest. McKesson Corp.; Harris Wholesale Co.--Racon., B-243018.2 et al., Aug. 20, 1991, 91-2 CPD ¶ 170. In this regard, PRC was ranked only sixth under the technical qualifications factor and ninth under management, MK-DR tenth ("low acceptable") under technical qualifications and fourth under management, and UIE, as discussed above, last under both technical qualifications ("susceptible to being made acceptable") and management ("low acceptable"). In view of (1) the significantly greater importance under the stated evaluation scheme of the "quality" factors, (2) the relative weakness of their proposals under the two most important "quality" factors--technical qualifications and management, and (3) our conclusion that the agency was justified in making some significant upward adjustment in their proposed costs based on their failure to support their below-estimated labor rates, we agree that there was no competitive prejudice to PRC, MK-DR, or UIE. We deny their protests in

SAIC, we find that the record establishes the possibility that the Army's failure to conduct a reasonable cost realism evaluation of SAIC's labor rates in the course of calculating its most reasonable cost resulted in competitive prejudice to SAIC relative to Interop. SAIC referenced significant evidence--a current contract with comparable labor categories performing generally similar work at Fort Meachuca--of the reasonableness of its lower rates. Interop, on the other hand, failed to support its labor rates for SCA-exempt categories. When questioned by the agency about its "low" labor rates, Interop merely referenced its reliance on

unspecified "average" corporate rates, "Salary Survey Reports," other "salary survey data," and the "Federal Grade level structure"; most of this data was not immediately available to contracting officials at Fort Huachuca and there was no explanation as to how the data, presumably based on work performed elsewhere, supported the proposed rates for the work to be performed at Fort Huachuca. Had SAIC's labor rates been found to have been reasonable and Interop's rates found to be unsupported and properly subject to adjustment upward to the mid-points of the rate ranges, SAIC's most probable cost would have been several million dollars less than Interop's.

As for the SSA's testimony concerning his reluctance to make award to SAIC, we find that it is inconsistent with both the stated evaluation criteria and the contemporaneous evaluation record. SAIC was ranked second under the technical qualifications factor, while Interop was ranked only fourth. Although SAIC's proposal was criticized by the SSEB under the quality control subcriterion of the management factor for proposing to use the same quality control officer for both the IMA and JITC contracts, SAIC received the same rating (acceptable) as did Interop under this subcriterion, and, in any case, this subcriterion was the fifth least important subcriterion under one of seven criteria under the management factor. Indeed, the SSAC in its recommendation to the SSA nowhere mentioned this aspect of SAIC's proposal. On the contrary, it stated that SAIC's rating under the technical and management factors was "quite close" to that of Interop. Our reading of the SSAC's recommendation indicates that SAIC and Interop were closely ranked and that the final determination as to which to recommend for the third award was based in large part upon Interop's lower most probable cost. The SSA adopted the SSAC's view in this regard, stating in the source selection decision that "I accept and adopt the SSAC unanimous recommendation and find it rational to award contracts to" BDM, Logicon, and

over the entire record, including statements made in response to a protest, in determining the Agency's selection decision is supportable, see Reliance Training Center, Inc.; Reflectone Inc., B-233113; B-233113.2, Feb. 15, 1989, where we generally accord greater weight to contemporaneous source selection materials rather than statements, such as the SSA's testimony, made in response to protest contentions. See DynCorp, B-245289, B-245289.2, Aug. 25, 1991, 91-2 CPD ¶ 575. Based upon our review of the entire record, and giving due weight to the contemporaneous source selection documents, we conclude that there is a reasonable possibility that the Army's improper evaluation of SAIC's cost proposal, which may have led to the mistaken

conclusion that its most probable cost exceeded Interop's, deprived SAIC of the opportunity of receiving the third award. We therefore sustain SAIC's protest against the award to Interop on this basis.

Accordingly, we are recommending that the Army reevaluate the cost realism and most probable cost of SAIC's and Interop's proposals and, based upon the results of that reevaluation, reconsider the award to Interop. The agency should fully and adequately document its cost/technical tradeoff and resulting source selection determination. If the agency determines that award to SAIC is appropriate, or that no third award is appropriate, then Interop's contract should be terminated for the convenience of the government. We also find that SAIC is entitled to recover its costs of filing and pursuing the protest, including reasonable attorneys' fees. 4 C.F.R. § 21.6(d)(1) (1991).

The protest of SAIC is sustained. The protests of PRC, MK-DR and UIE are denied.

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