S. Riback
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**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: All Bann Enterprises, Inc.

File: B-242751

Date: June 3, 1991

Lawrence Bann for the protester.
Al Weed for Nomura Enterprises, Inc., an interested party.
Craig E. Hodge, Esq., Department of the Army, for the agency.
Scott H. Riback, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's cost realism analysis is reasonable where agency made probable cost adjustments based upon the government's requirements as embodied in an independent government cost estimate as well as the agency's assessment of the costs associated with each firm's particular technical approach.

DECISION

All Bann Enterprises Inc. protests the award of a contract to Nomura Enterprises, Inc. under request for proposals (RFP) No. DAAA15-90-R-0013, issued by the Department of the Army for the design and manufacture of a quantity of modular decontamination systems (MDS). All Bann contends that the Army's cost realism analysis under the subject RFP was improper and that it would have received the award if a proper analysis had been performed.

We deny the protest.

The RFP called for both the design and manufacture of the MDS, and contemplated the award of a cost-plus-fixed-fee base contract with two firm, fixed-price options. The base cost-type contract is for the design of the MDS, and for the fabrication and testing of prototype units. The two fixed-priced options are for manufacturing stated quantities of the MDS.

The RFP provided that firms would be evaluated in the areas of technical capability, management capability, adequacy of facilities, past performance and cost. To be eligible for award, a proposal had to be found technically acceptable under each non-cost evaluation criterion. In the cost area, the RFP provided that the offerors' proposed costs for the development effort would be evaluated using a probable cost analysis, and that each offeror's evaluated probable cost for the development effort would be added to its fixed prices for the production quantity options to calculate its evaluated costs. Award was to be made to the firm offering a technically acceptable proposal at the lowest evaluated cost.

For the cost area, offerors were required to provide in their proposals a complete breakout of their estimated costs including labor, material and indirect costs. In the labor cost portion of their proposals offerors were required to provide detailed information concerning the mix of labor proposed as well as their proposed level of effort in the form of a manloading matrix. This matrix provided the agency with each firm's proposed manhours on a task-specific basis for the development effort. For the fixed-price options, offerors were required to provide more general data in support of their offered per-unit prices.

In response to the RFP, the agency received four offers, all of which were determined to be technically unacceptable but susceptible of being made acceptable through discussions. These initial offers were also evaluated in terms of probable cost for the development portion of the requirement.

The agency engaged in two rounds of discussions, and solicited best and final offers (BAFO) in connection with the second round of discussions. Since the agency found that it no longer needed some options for spare parts, it issued an amendment to delete these requirements. The agency then conducted a third round of discussions, and requested a second BAFO. The initial round of discussions addressed both the technical acceptability of the firms' offers and their proposed manloading. After these technical discussions, all four offerors were determined to be technically acceptable. During each of the subsequent rounds of discussions, each firm was advised of the agency's concerns regarding the sufficiency of their proposed manloading. These discussions identified perceived overstaffing or understaffing in each employee category for each of the various tasks outlined in the RFP's statement of work for the development effort.

The agency, in evaluating the cost realism of the initial proposals and BAFOs, made various adjustments to the offerors' proposed costs based upon a comparison of each firm's cost proposal with its technical proposal. Where a firm's proposed level of effort was determined to be either insufficient or excessive to meet the level of effort determined necessary to comply with its technical proposal, the agency used manhour estimates in its independent government cost estimate (IGCE) to calculate that firm's evaluated costs.1/

In addition, during the conduct of discussions, the agency requested and received Defense Contract Audit Agency (DCAA) audits for each firm's various proposed labor rates and non-labor cost elements. The DCAA audits took no exception to any of the offerors' proposed labor rates, and only minor exceptions to certain offerors' non-labor cost elements. These audits are not germane to the protest.

After performing a cost realism analysis of the second round of BAFOs, the agency made award to Nomura, since it was found to be the technically acceptable offeror proposing the lowest overall evaluated price. This protest followed.

All Bann argues that the agency erred in its cost realism analysis and therefore improperly determined that Nomura was the firm offering the lowest evaluated cost. Specifically, All Bann alleges that the Army "normalized" all the firms' proposed manloading estimates by simply increasing all offerors proposed levels of effort to that in the IGCE. According to All Bann, this "normalization" converted the acquisition to a level of effort requirement, which had the effect of directing award to the offeror with the lowest proposed labor rates. All Bann asserts that this analysis did not account for its superior experience and skills, particularly as compared to Nomura's alleged lesser experience and skills. All Bann also alleges that the IGCE must have been erroneous because of the large disparity in terms of labor hours between the IGCE and the offers of Nomura and All Bann. All Bann also argues that the agency erred in its cost realism analysis by failing to reduce the firms overhead rates to account for the fact that those rates were being

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1/ In evaluating initial offers, where an offeror's proposal did not adequately justify the proposed staffing levels, the agency allowed a 30 percent variation in proposed manloading on a per-labor-category basis in calculating each firm's probable cost. Thus, for example, where a firm proposed a drafting effort, which called for less than 70 percent of the manhours used in calculating the IGCE, the agency added the cost of bringing the firm's level of effort to within 70 percent of the IGCE using the firm's proposed rates of compensation. In evaluating BAFOs, the agency expected firms to propose a level of effort within 10 percent of the IGCE and adjusted the firm's level of effort to 100 percent of the IGCE on a per-labor category basis if the firm did not propose to within 10 percent of the manhours called for under the IGCE or justify its proposed staffing level vis-a-vis its technical proposal.

applied to a much larger number of labor hours. According to All Bann, had the agency properly calculated its overhead rates, its overall evaluated cost would have been approximately $340,000 less. Finally, All Bann argues, in the alternative, that the agency did not conduct meaningful discussions with it on the subject of manloading.

Where a cost reimbursement contract is being contemplated under an RFP, the offerors' proposed estimated costs of contracting should not be considered controlling, since they may not provide an accurate assessment of the actual costs which the government is, within certain limits, required to pay. CACI, Inc.-Federal, 64 Comp. Gen. 71 (1984), 84-2 CPD ¶ 542; Pan Am World Servs., et al., B-231840 et al., Nov. 7, 1988, 88-2 CPD ¶ 446. In this regard, a cost realism analysis is a government determination as to what the probable cost of acceptance of a particular proposal will be, and must consequently take cognizance of differing technical approaches, which may impact upon, for example, a firm's requirement for labor. Id. Our review in such cases is limited to consideration of whether the agency's actions in making adjustments to a firm's proposed costs are reasonable. Id.

We have examined the record and conclude that the agency's cost realism analysis was reasonable. First, contrary to All Bann's contention, the record does not show that all firms' proposed labor hours were normalized to the level of effort stated in the IGCE. Rather, the record shows that the agency read each firm's cost proposal in connection with its technical proposal, making both upward and downward adjustments to each firm's proposed labor hours for each task outlined in the RFP based upon the technical evaluators' judgments concerning the firm's capability to perform in accordance with its particular technical approach.2/

For example, the technical evaluators found that in All Bann's proposal, the firm had not demonstrated that it had either the required facilities or necessary manhours committed to meet the solicitation's requirement for the production of computer assisted drawings. Consequently, in its initial evaluation of All Bann's proposal, the agency noted this as a technical deficiency and added the estimated cost for the labor required to the firm's evaluated cost using, as its basis for the number of labor hours required, the labor hours called for in the IGCE for the related tasks. In its subsequent

2/ The three rounds of discussions gave offerors who disagreed with the agency's assessment an opportunity to explain how they could successfully accomplish the work with less or more staff.

evaluations, however, the agency determined that All Bann had demonstrated during discussions the necessary capabilities, both in terms of investment in its facilities and commitment of sufficient manhours, to accomplish the drawing requirement. Accordingly, the agency in the later evaluations did not adjust All Bann's cost proposal in this area, even though its manhour estimate deviated from the estimate contained in the IGCE.

That labor hours were not normalized is also shown by the fact that there existed a wide variation--more than 13,000 labor hours--in the offerors' adjusted levels of effort. Also, All Bann's evaluated hours were the lowest of the four offerors, which seemingly indicates that the agency recognized whatever technical advantages might be obtained by virtue of All Bann's relative level of skill and innovation.3/ On the other hand, the record indicates that even more hours were added to Nomura's proposal in the cost realism analysis.4/ Under the circumstances, the Army's evaluation of manhours was reasonable.

All Bann also challenges the reliability of IGCE. It is true that where there exists substantial deviation between an IGCE and offers received, the government may not properly reject deviating offers without discussions where the IGCE is not disclosed to offerors. See Teledyne Lewisburg, et al., B-183704, Oct. 10, 1975, 75-2 CPD ¶ 228. This is so because without discussions, an offeror is not afforded an opportunity to explain the discrepancy, which may be the result of a particular level of skill or innovation on the part of the offeror. Id.

Here, the record shows that, both in terms of cost and proposed level of effort, the IGCE fell at about the midpoint of the four offerors' proposals, a fact which tends to indicate the IGCE was relatively accurate. In any event, since the agency engaged in exceptionally detailed discussions with the offerors regarding their respective proposed levels of effort, we cannot say that the offerors were not afforded an adequate opportunity to demonstrate the technical adequacy or potential cost savings of their proposed levels of effort. See Pan Am World Servs., et al., B-231840 et al., supra.

3/ The record does not support All Bann's assertion that it has superior experience and skills vis-a-vis Nomura.

4/ The record also belies All Bann's contention that Nomura's lower evaluated cost was solely attributable to lower labor rates. For example, Nomura's other direct costs and fees were also lower than All Bann's.

We agree with the protester that the record does show that the agency failed to reduce each firm's proposed overhead rates to account for changes in their respective levels of effort. Nevertheless, this failure was clearly not prejudicial to All Bann. Even assuming that All Bann is correct that the agency erroneously calculated its probable cost to be $340,000 higher than it should have been, All Bann's offer would still not be low for award purposes.5/

Finally, we find no merit to All Bann's argument that meaningful discussions were not conducted with it on the subject of manloading. For discussions to be meaningful, an agency must generally lead an offeror into the areas of its proposal deemed deficient, but need not conduct all-encompassing discussions. See generally Scientific Mgmt. Assocs., B-238913, July 12, 1990, 90-2 CPD ¶ 27. The record here shows that on three separate occasions the agency discussed with remarkable specificity the sufficiency of All Bann's manloading.

The protest is denied.

Robert P. Murphy
for James F. Hinchman
General Counsel

5/ This does not even take into consideration the similar adjustment that must necessarily be made to Nomura's overhead costs if such an adjustment were made to All Bann's probable cost.