



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Arthur D. Little, Inc.

File: B-243450

Date: July 31, 1991

Jay P. Urwitz, Esq., Hale and Dorr, for the protester.
Joel R. Feidelman, Esq., and Daniel I. Gordon, Esq., Fried,
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of the decision.

DIGEST

1. Notwithstanding greater importance of technical factors in overall evaluation scheme, agency may award contract to a lower-cost offeror where the record establishes that the source selection authority reasonably determined proposals to be technically equal.
2. Agency cost realism analysis had a reasonable basis where the agency reviewed the awardee's proposal to ensure that the awardee proposed a sufficient level of effort; verified awardee's direct and indirect cost rates with the Defense Contract Audit Agency; and verified that in the past awardee generally performed at the cost it proposed.

DECISION

Arthur D. Little, Inc. (ADL) protests the award of a contract to Science Applications International Corporation (SAIC) under request for proposals (RFP) No. DAAA15-90-R-1003, issued by the Department of the Army for program and integration support for the Army's chemical demilitarization program. ADL protests that in awarding the contract to SAIC the Army did not follow the evaluation criteria established in the RFP and

did not perform a reasonable cost realism analysis of SAIC's proposal.^{1/}

We deny the protest.

BACKGROUND

The Secretary of Defense has been charged with the responsibility of destroying the United States' stockpile of chemical agents and munitions in existence as of November 8, 1985. The chemicals are stored at eight military facilities in the continental United States (CONUS) and on the Johnston Atoll in the South Pacific. The Army has awarded several contracts to contractors who are procuring, constructing, and operating the demilitarization facilities at the eight CONUS sites, and operating a central training facility. The current RFP was issued for a Program and Integration Support Contractor to provide integration and support activities for facilities design, equipment acquisition, equipment installation, quality assurance, and surety and mission support. The contractor will track, integrate, and coordinate the efforts of several other contractors. It will also perform studies and evaluations, collect and collate data, and prepare technical and management reports. The contract will run for 5 years.

The RFP called for a cost-plus-fixed-fee, indefinite quantity/indefinite delivery contract for line items 0001, 0002, and 0003, under which the Army can place delivery orders within the scope of the statement of work, RFP section C.4. The RFP detailed nine tasks representing the kind of work that can be ordered under section C.4. The RFP also solicited firm, fixed-prices for line items 0006 through 0012, under which the Army can place orders for tasks, which are to be performed in accordance with section C.5. and appendices 1 through 6.

In responding to the RFP offerors were required to submit a technical/management proposal and a cost proposal. In the technical/management proposal offerors were to describe their approach to satisfying the statement of work, and prepare technical proposals on the nine evaluation tasks. In addition, the offerors were to prepare fixed-price proposals for each demilitarization site for each of the 5 contract

^{1/} Initially, ADL also complained that the Army did not engage in meaningful discussions with the firm. In its report, the Army refuted this allegation. Since in its comments on the Army's report ADL did not rebut the Army's response to this allegation, we consider ADL to have abandoned this basis of protest. See Ross Aviation, Inc., B-236952, Jan. 22, 1990, 90-1 CPD ¶ 83.

years. Finally, the offerors were to provide offeror-defined tasks that described their approaches to program integration.

The RFP provided for the evaluation of seven technical/management factors and cost. The technical/management factors were to be point scored and combined into a merit rating. The technical/management factors were listed in descending order of importance and each was followed by a number of subfactors, which were equal in weight. The cost proposals were to be evaluated for magnitude and realism. Section M.2. of the RFP, Basis For Award, provided:

"The basis for award of a contract as a result of this solicitation will be an integrated assessment by the Source Selection Authority of the results of the evaluation of the areas, elements, and factors set forth, giving due consideration to the relative order of importance indicated in M.3. The government will evaluate the extent to which the offeror exhibits capability in the evaluation areas. Ultimately, the source selection decision will take into account the contractor's capability to meet the requirements of this solicitation on a timely and cost effective basis. Accordingly, the Government may award any resulting contract to other than the lowest priced offeror, or other than the offeror with the highest merit rating."

Section M.3., Evaluation Areas and Their Relative Order of Importance, provided in part:

"The Technical/Management factors will be combined into a merit rating for the area. The estimated cost to the Government of the performance of this contract over its entire life will be projected as described in M.5. The Source Selection Authority, in making the integrated assessment of the results of the evaluation of the factors herein, will give due consideration to the relative order of importance of merit rating and projected cost.

"The Technical/Management merit rating is more important than projected cost. The Government's primary concerns for this procurement are technical and management capability. Accordingly, we are willing to pay more if an increase in technical and management capabilities so warrants. However, projected cost may become more significant in the event that competing merit ratings are closely grouped and offer comparable merit contributions to the Government."

Section M.5., Cost, provided:

"The cost proposals for the Tasks will be analyzed for magnitude and realism. The costs proposed for the Tasks will be adjusted as necessary to establish the probable cost to the Government for performance of the work described in the Task Work Statements. The probable cost of the Tasks and the prices proposed for line items 6 through 12 will then be used to project the probable cost to the Government for performance of all estimated requirements during the 60 month term of the contract. This projected cost from each offeror will be used as the basis for comparison with other offerors with respect to the cost factor in accordance with paragraph M.3. . . ."

The technical/management proposals were to be evaluated by a source selection evaluation board (SSEB) technical committee. For each proposal the SSEB technical committee scored each of the 25 subfactors on the basis of a 10 point scale under which a proposal received 0 points if it was clearly unsatisfactory; 1-3 points if it was unsatisfactory, but negotiable with the offeror; 4-5 points if it met the minimum requirements of the RFP; 6-8 points if it was highly satisfactory; and 9-10 points if it was exceptional. This evaluation resulted in the offeror's raw score. The SSEB technical committee was also to review the proposals to ensure that the offeror's proposed level of effort was sufficient. The SSEB cost committee then computed a probable cost to the government for each offeror. The SSEB provided its results to the source selection advisory council (SSAC), which was to review the results and assign the appropriate weight to each evaluation factor. The total possible score a proposal could receive after the weights were assigned to the evaluation factors was 1,075. The SSAC was also responsible for making an award recommendation to the source selection authority (SSA), who was to choose the awardee.

Five offerors responded to the RFP by the March 30, 1990, closing date. After the initial evaluations by the SSEB technical team, the protester, the awardee, and TRW, Inc., were included in the competitive range. Multiple rounds of discussions were held with each of these offerors, and best and final offers (BAFO) were requested by January 7, 1991. After the BAFOs were evaluated the weighted scores were: ADL, 547.25; SAIC, 478.83; and TRW, 471.58. The SSEB technical team then reviewed each offeror's proposed direct labor hours, and proposed travel, and adjusted the proposal to match the offeror's technical approach. The Defense Contract Audit Agency (DCAA) audited the offerors' labor rates, and other indirect and direct cost rates. The information from the SSEB technical committee and DCAA was then provided to the SSEB

cost committee, which used this information to adjust the offerors' proposed costs for realism, and in doing so came up with the probable cost to the government of awarding the contract to each offeror. The cost proposals as adjusted for cost realism were: ADL, \$196,895,987; SAIC, \$127,722,021; and TRW, \$274,133,198.

The SSAC reviewed the technical evaluations and the cost adjustments for each offeror. The SSAC considered the strengths and weaknesses of each offeror and concluded that no offeror presented a high risk of failure and that there were no major deficiencies in any of the technical/management BAFOs. The SSAC concluded that the ADL proposal was somewhat superior to the other proposals but that overall the three scores were closely grouped and the benefits to be gained by an award to ADL were not worth the \$70 million cost premium. As a result, it determined that the SAIC proposal offered the best value to the government and recommended to the SSA that the contract be awarded to SAIC.

The SSA reviewed the SSAC recommendation and also performed his own analysis. In doing so he determined that based on a maximum score of 1,075 the scores of the three offerors (ADL, 547.25; SAIC, 478.83; and TRW, 471.58) were closely grouped. He also determined that the point difference between ADL and SAIC was not warranted. Specifically, he looked at evaluation factor M.4.1., Understanding of the Program's Requirements and Objectives, the most important factor, on which ADL scored 31 points higher than SAIC. He reviewed the SSEB evaluation documents and concluded that this difference was based primarily on the SSEB's concern that SAIC proposed the use of "well chosen models" without explaining the value, validity or risks of such models." In the SSA's view, the validity of the use of such models is a matter of judgment, and the use of models could be a valid tool to highlight technical and management problems and focus attention toward a valid solution. He also noted that the evaluation report did not refute the validity of using models. Based on these factors he concluded that the 31 point difference between the proposals under this factor was not justified.

The SSA also examined factor M.4.2., Technical Knowledge and Ability, for which ADL received a 12 point advantage and again found that the point difference was not justified. He found that for subfactor 4.2.1., described as "[t]he offeror's thorough understanding of the contract requirements and knowledge of how to perform all the types of work required," ADL received a point advantage because of the knowledge and ability of its subcontractor, and for subfactor 4.2.2., described as "[the] offeror's suitable approach for satisfying all the types of work that could potentially be solicited as future tasks," SAIC was downgraded because it did

not propose a staff chemist at each location. The SSA concluded that both of these drawbacks could be corrected during contract performance. In his report, the SSA states that he also looked at the other factors and generally found that ADL's higher score was not warranted. Accordingly, he concluded that the proposals were relatively equal in technical merit and that the award should be made to SAIC due to its lower cost. In the alternative, the SSA found that even if the 76 point difference in technical proposals was valid, the ADL proposal did not contain any technical or management capability that justified a \$70 million cost premium. As a result, he decided to award the contract to SAIC.

TECHNICAL/COST TRADEOFF

ADL's Contentions

ADL protests that the Army failed to award the contract in accordance with the evaluation criteria in the RFP. ADL argues that because the RFP stated that the technical/management rating is more important than cost, the Army was required to award the contract to the technically superior offeror, and only if offers were comparably grouped in merit rating could a tradeoff analysis be made between technical superiority and cost to choose the awardee.

ADL argues that its proposal was in fact technically superior to the proposal of SAIC and that the SSA improperly determined otherwise. To support this position ADL asserts that the 75.6 point difference in the technical scores of the two firms (which according to ADL, translates to a 14.3 percent difference) demonstrates that its proposal was superior to SAIC's.^{2/} ADL also points to the ratings the two offerors

^{2/} Of the 1,075 maximum points available, ADL received 542.25 points and SAIC received 478.83 points. ADL asserts that this point difference translates into a 14.3 percent difference in technical scores using the following formula:

$$\frac{542.25 - 478.83}{478.83} = 14.3\%$$

The correct formula to determine the percentage difference in technical scores is:

$$\frac{542.25 - 478.83}{1,075} = 6.4\%$$

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received on the evaluation subfactors. The protester speculates that because its score for evaluation factor M.4.1. was 31 points higher than SAIC's, it outsourced SAIC on each of the 4 subfactors under that factor, and that since it received 12 more points for factor M.4.2., it outsourced SAIC on at least 3 of 5 subfactors under that factor. ADL notes that the evaluators made many superlative comments concerning ADL's technical proposal and assumes that the comments concerning SAIC's proposal were less favorable. The protester points out that the SSAC concluded that ADL's technical proposal was somewhat superior to SAIC's technical proposal.

ADL also charges that the SSA's conclusion that the proposals of ADL and SAIC were technically equal was unreasonable. The protester first argues that the SSA did not rationally determine that the difference in the point scores between the two offerors was unwarranted. In this regard, ADL argues that the SSA used his own general opinion concerning the use of models to set aside the 31 point difference for factor M.4.1. without tying his opinion to SAIC's particular use of models for this procurement. ADL also asserts that the SSA improperly determined that the point advantage ADL received based on its proposed subcontractor, and because SAIC did not propose a staff chemist at each location was unwarranted because SAIC could correct these problems during contract performance. ADL argues that the SSA could not base his decision that the proposals were relatively equal on SAIC's possible future performance because this would mean that the SSA reevaluated the proposal on the basis of information that was not contained in the proposal. ADL also contends that the decision finding the two proposals technically equal was unreasonable because it was based on the SSA's review of only two evaluation areas. ADL asserts that for the SSA to reasonably conclude that the proposals were technically equal he would have to examine each proposal for each evaluation factor to see if the factor was properly scored.

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ADL further asserts that since the Army did not give any offeror fewer than 4 points or more than 6 points for any factor, the actual scoring was based on that scale rather than on the 10 point scale discussed. ADL argues that based on this 4-6 point scale, its score was in fact 31.8 percent higher than SAIC's. Our review shows no evidence that the Army based its scores on anything other than its objective evaluation of the merits of the offerors' technical proposals. The record also shows that some offerors received fewer than 4 points. The Army did not find that any proposal was worth more than 6 points for any subfactor.

Analysis

The Army was not required to award the contract to the offeror receiving the highest technical/management score regardless of cost. The solicitation did not say that cost would be considered only if proposals received the same or equal technical/management scores. Instead, it said that the award decision would be based on an integrated assessment of the technical/management factors and cost. In a negotiated procurement, even if cost is the least important evaluation criterion, an agency properly may award to a lower rated, lower cost offeror if it reasonably determines that the premium involved in awarding to a higher rated, higher cost offeror is not justified given the level of technical competence available at the lower cost. Science Applications Int'l Corp., B-238136.2, June 1, 1990, 90-1 CPD ¶ 517. ADL's belief that cost would be considered only between technically equal proposals is inconsistent with the text of the solicitation and the Competition in Contracting Act of 1984, which requires that cost be considered in each procurement. See 10 U.S.C. § 2305(b) (1988); Wyle Laboratories, Inc.; Latecoere Int'l, Inc., 69 Comp. Gen. 648 (1990), 90-2 CPD ¶ 107.

In this case, the SSA considered the proposals of ADL and SAIC to be technically equal, and concluded that the award should go to SAIC on the basis of cost for that reason. Where selection officials reasonably regard proposals as being essentially equal technically, cost may become the determining factor in making an award decision notwithstanding that the evaluation criteria assigned cost less importance than technical considerations. See Warren Elec. Constr. Corp., B-236173.4; B-236173.5, July 16, 1990, 90-2 CPD ¶ 34. Whether a given point spread between competing offerors indicates significant superiority of one proposal over another depends on the facts and circumstances of each procurement. While technical point scores and descriptive ratings must be considered by source selection officials in making this determination, they are not bound thereby; rather, source selection officials must determine if they agree that the point scores are indicative of technical superiority and what the difference may mean in contract performance. Merdan Group, Inc., B-231880.3, Feb. 28, 1989, 89-1 CPD ¶ 210.

In reviewing evaluations, our Office will examine the record to determine whether the agency's judgment was reasonable and consistent with the evaluation scheme. Id. Here, our review indicates no basis on which to object to the Army's determination that the technical proposals of ADL and SAIC were technically equal. The relative point scores, ADL, 547.25 and SAIC, 478.83, out of 1,075 points (a 6.4 percent difference),

clearly support this conclusion. See Lockheed Corp., B-199741.2, July 31, 1981, 81-2 CPD ¶ 71 (contracting agency properly found proposals technically equal despite 15 percent difference in technical scores). Insofar as ADL argues that an analysis of the point scores the two offerors received for the subfactors demonstrates that ADL's proposal was technically superior, our review shows that for some subfactors ADL was rated higher and for others SAIC was rated higher. Both offerors, however, received mostly 4's and 5's for all subfactors which, according to the source selection plan, means that the SSEB considered both offerors satisfactory for those subfactors. Each offeror also received a score of 6 on a few subfactors. Thus, an analysis of the subfactor scores does not demonstrate that ADL's proposal was technically superior to SAIC's.

To the extent that ADL tries to demonstrate that its proposal was technically superior by focusing on superlative comments the evaluators made concerning the firm's technical proposal, these comments, taken out of context, do not demonstrate that the ADL proposal is superior. Our review shows that the evaluators also made numerous superlative comments about SAIC's proposal.

With respect to ADL's argument that the SSAC found that ADL's proposal was somewhat superior to SAIC's proposal, the SSA is not required to agree with the SSAC, and here the SSA independently concluded that the proposals were technically equal. See Burnside-Ott Aviation Training Center, Inc.; Reflectone Training Sys., Inc., B-233113; B-233113.2, Feb. 15, 1989, 89-1 CPD ¶ 158.

Finally, ADL argues that the SSA unreasonably found that the difference in point scores between the offerors was unwarranted. As noted above, the specific areas discussed by the SSA were SAIC's proposed use of models under factor M.4.1., and the proposed subcontractor and lack of a staff chemist at each location under factor M.4.2. Since the SSEB did not refute the validity of models or otherwise explain why SAIC's proposed use of models was a problem, the SSA's conclusion that the validity of using models is a matter of judgment, and that the use of models could be a valid tool to focus attention toward a valid solution, was a sufficient basis on which the SSA could find that SAIC's proposal should not have received 31 fewer points than ADL's based on its proposed use of models under factor M.4.1.

Concerning factor M.4.2., even assuming that the SSA could not properly disregard the 12 point difference between ADL and SAIC based on his belief that SAIC could correct shortcomings in its proposal during contract performance, we find reasonable the SSA's conclusion that ADL's and SAIC's

proposals were essentially equal. As discussed above, the SSA believed that even if the entire 76 point difference in scoring of the technical proposals accurately represented the relative merits of those proposals, the advantages in ADL's proposal did not warrant a \$70 million premium. There is no evidence in the record before us that, contrary to the SSA's determination, the 12 point difference for factor M.4.2. (out of 1,075 available points) actually represents a significant difference in the proposals.

Insofar as ADL argues that for the SSA to reach a reasonable conclusion concerning whether the proposals were technically equal he was required to consider each evaluation factor and each offeror's proposal, from our review of the SSA's report it appears that the SSA did review all areas of the proposals. Specifically, the report discusses the advantages and disadvantages of each proposal, the performance risks of each proposal, and also generally states that all evaluation areas were considered. In any case, it is reasonable for the SSA to consider only those evaluation areas for which he found the evaluation questionable. Burnside-Ott Aviation Training Center, Inc.; Reflection Training Sys., Inc., B-233133; B-233133.2, supra.

COST REALISM ANALYSIS

ADL's Contentions

ADL protests that the Army failed to perform a reasonable cost realism analysis of SAIC's proposal. ADL first notes that SAIC's revised cost, \$127,722,021, is still less than 40 percent of the \$202,505,226 independent government cost estimate. ADL asserts that the Army's rationale for SAIC's lower costs--that SAIC can do the tasks required for less cost because of better organization and lower overhead with dedicated labor--is not sufficient, especially given that ADL also uses dedicated labor and has low management costs.

ADL questions the Army's methodology in performing the cost realism analysis. ADL asserts that for the Army to have performed a proper cost realism analysis of SAIC's proposal it would have had to consider, among other things, the level of effort proposed; the quality of personnel; indirect rates; and other factors including fringe benefits, overhead, general and administrative costs, materials, and treatment of overtime to ensure that SAIC did not base its labor rates on the use of

uncompensated overtime.^{3/} ADL argues that the Army did not properly consider these factors in performing the cost realism analysis of SAIC's proposal.

ADL asserts that SAIC's proposal must be based on an extremely low and therefore unrealistic level of effort, which calls into question both the technical and cost realism of SAIC's proposal. To support this position ADL asserts that it has experience in all areas of the RFP; that it based its estimate of the level of effort required on this experience; and that no offeror could perform the tasks with a lower level of effort or with less qualified personnel. ADL also questions whether the Army confirmed that SAIC based its labor rates on a 40-hour work week. Finally, ADL questions whether SAIC offered any special cost reduction measures, which the Army included in its cost realism analyses of SAIC's proposal, but which will not be in effect for the full 5 years of the contract.

The Army responds that it accepted the prices SAIC proposed for the firm, fixed-price portion of the contract because those are the prices it will pay when it issues orders under these line items. Concerning the cost-plus-fixed-fee portion of the contract, the Army states that it performed a detailed cost realism analysis of SAIC's proposal. The Army explains that the cost realism analysis was based on each offeror's approach to the RFP. The SSEB technical committee first evaluated and adjusted SAIC's proposed direct labor hours, overhead, and travel, then adjusted the hours and travel to match SAIC's proposed technical and management approach. In doing so, the SSEB reviewed the technical proposal to determine the tasks and subtasks SAIC proposed to perform to complete each RFP task. The SSEB considered the personnel proposed, resumes, labor category description, skill levels and mix proposed. DCAA also reviewed the indirect and direct cost rates in the cost proposal. The cost committee then took the audits and the SSEB technical team information and developed a probable cost for SAIC's proposal, that is, the cost the government could expect to pay if it awarded the contract to SAIC.

The Army also states that SAIC did not propose fewer labor hours than ADL, and that in fact in many cases SAIC proposed a greater number of labor hours than ADL. The Army found no

^{3/} "Uncompensated overtime" refers to the overtime hours (hours in excess of 8 hours per day/40 hours per week) incurred by salaried employees who are exempt from coverage of the Fair Labor Standards Act, 29 U.S.C. § 202 (1988). Under the Act, exempt employees need not be paid for hours in excess of 8 hours per day or 40 hours per week.

evidence of uncompensated overtime in SAIC's proposal and it was generally satisfied with the quality of SAIC's proposed personnel, the personnel mix, and the management hours. Finally, the Army states that it reviewed SAIC's past performance and found no evidence of cost overruns; rather, SAIC generally performs for the amount it proposes.

Analysis

When an agency evaluates proposals for the award of a cost reimbursement contract, an offeror's proposed estimated costs of contract performance are not controlling, since the offeror's estimates may not provide valid indications of the actual costs which the government is, within certain limits, required to pay. See Federal Acquisition Regulation (FAR) § 15.605(d). Consequently, the 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. General Marine Indus. of New York, Inc.; Todd Pacific Shipyards Corp., B-240059; B-240059.2, Oct. 18, 1990, 90-2 CPD ¶ 311. Our review of an agency's exercise of judgment in this area focuses on whether the agency's cost realism evaluation was reasonably based. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325.

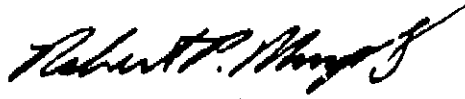
An agency is not required to conduct an in-depth analysis or to verify each item in conducting a cost realism analysis. PRC/VSE Assocs. Joint Venture, B-240160, et al., Oct. 30, 1990, 90-2 CPD ¶ 348. Further, the purpose of a cost realism analysis is not to determine what an offeror's costs would be using a technical approach prescribed by the agency; rather, it is to determine what, in the government's view, it would realistically cost the offeror to perform given the offeror's own technical approach. SRS Techs., 69 Comp. Gen. 459 (1990), 90-1 CPD ¶ 484.

Here, in determining the cost realism of SAIC's proposal, the Army first had the SSEB technical team review SAIC's proposal to determine if it was in conformance with the firm's approach to the tasks. The SSEB technical team reviewed each of SAIC's nine cost-plus-fixed-fee tasks and in doing so looked at the proposed level of effort for each task; whether SAIC proposed qualified personnel to perform the tasks; the personnel mix, for example, how many senior and junior engineers the offeror proposed for a specific task; whether material and equipment costs were included for the tasks; and the proposed travel. Where the SSEB technical team did not agree with what SAIC proposed, it recommended the numbers that it believed SAIC would require, using SAIC's approach, to perform the tasks.

SAIC's cost proposal as well as the cost proposals of SAIC's proposed subcontractors also were audited by DCAA. DCAA reviewed the proposed labor rates, as well as the indirect and direct costs. DCAA did not find any substantial questions concerning these rates. The SSEB cost team then did a cost evaluation taking into account the recommendations of the SSEB technical team and DCAA audit and computed a probable cost for SAIC to perform. Thus, in performing the cost realism analysis of SAIC's proposal the Army did in fact consider all the elements that ADL argues it would be required to consider to perform a reasonable cost analysis. We also have verified with DCAA that its audit was performed on the basis of SAIC basing its labor rates on a 40-hour work week. Given these factors, we have no basis on which to find the cost realism analysis unreasonable.

ADL also asserts that the Army improperly awarded the contract to SAIC because the Army did not consider that the low cost of SAIC's proposal showed that SAIC did not understand the work to be performed and was not capable of performing the contract. This allegation is not substantiated by the record. In evaluating SAIC's technical proposal, the Army did consider the level of effort SAIC proposed for each task and did downgrade the score where the level of effort proposed was not sufficient to perform. The fact is, however, that the Army generally found that SAIC's proposed level of effort was sufficient and, as noted above, in many cases SAIC proposed a level of effort higher than ADL. Given that SAIC's proposed level of effort was sufficient and its personnel qualified, we find that the Army had no reason to question whether SAIC understood the work to be performed and was capable of performing despite the firm's low proposed cost.

The protest is denied.


for James F. Hinchman
General Counsel