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**United States Government Accountability Office  
Washington, DC 20548**

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## Decision

**Matter of:** Hanford Environmental Health Foundation

**File:** B-292858.2; B-292858.5

**Date:** April 7, 2004

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Harold G. Bailey, Esq., Richard D. Gluck, Esq., and John A. Knab, Esq., Garvey Schubert Barer, for the protester.

Helaine G. Elderkin, Esq., Carl J. Peckinpaugh, Esq., and Charles S. McNeish, Esq., Computer Sciences Corporation, the intervenor.

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John L. Formica, Esq., and Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protest that the awardee's staffing plan provides for fewer personnel than will be required to perform the contract is denied where the agency reasonably considered the offerors' differing technical approaches while evaluating the proposed staffing plans and the protester's assertion is based solely on a comparison of the total number of personnel it proposed to perform the contract to the total number of personnel proposed by the awardee.

2. In cost reimbursement contract, protest that agency should have upwardly adjusted the awardee's proposed costs to account for the awardee's proposal of a lower fringe benefit rate than the rate previously paid by the incumbent contractor is denied where the agency reasonably determined, among other things, that the awardee's proposed fringe benefit rate was comparable to commercial rates in the region where the contract will be performed.

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### DECISION

Hanford Environmental Health Foundation (HEHF) protests the award of a contract to AdvanceMed Corp., under request for proposals (RFP) No. DE-RP06-03RL14383, issued by the Department of Energy (DOE), for occupational medical services.

We deny the protest.

The RFP was issued for occupational medical services to support the 11,000 personnel currently working on or near DOE's Hanford site. The Hanford site consists of 586 square miles of land in southeastern Washington, and for almost 50 years "was dedicated to plutonium production for the nation's nuclear arsenal." Agency Report (AR) at 2. As a result of the plutonium production operations, Hanford has "become the nation's largest environmental cleanup project." Id.

The personnel working at Hanford are exposed to "chemical and radiological hazards, as well as more typical construction-related hazards." AR at 2. Given Hanford's history and the resultant health risks to which personnel are exposed, the agency describes the occupational medical program as "an integral component of the Site's safety management system and is critical for maintaining the health and safety of Hanford employees." Id. The medical services to be provided under this RFP include, among other things, medical monitoring and qualification examinations, diagnosis and treatment of injury or illness, employee counseling and health promotion, field/facility visits, records and case management, and emergency and disaster preparedness.

The contractor will be required to provide all personnel, facilities, equipment, materials, and supplies (with the exception of identified government resources) to perform the required occupational medical services. The RFP specified that "[t]he Contractor has the responsibility for total performance under this contract, including determining the specific methods for accomplishing the work effort, performing quality control, and assuming accountability for accomplishing the work under the contract." RFP § C.2.

The RFP explained that the resultant contract will "reflect[] the application of performance-based contracting approaches and techniques that emphasize results/outcomes and minimize 'how-to' performance descriptions." RFP § C.2. Consistent with this, the solicitation provided certain "[d]esired [o]utcomes" and "[d]esired [o]bjectives" for contract performance. RFP §§ C.3, 4. For example, the RFP listed "[a] Hanford Site occupational medical program that is cost-effective and of good value to the DOE and the United States taxpayer" as one of the desired outcomes, and the provision of "occupational medical service processes and systems that are consistent with an efficient and effective operation" as one of the desired objectives. Id.

The RFP provided for the award of a performance-based, cost-plus-award-fee service contract, with the fee to be based upon the agency's evaluation of the contractor's performance, as measured against specific evaluation criteria set forth in the contract. RFP §§ B.3, F.1. Award of the contract was to be made to the offeror submitting the proposal determined to represent the best value to the agency based on the evaluation criteria of technical/management and cost. The RFP provided that the technical/management criterion was comprised of the following six sub-criteria, listed in descending order of importance: experience; medical approach; past

performance; organization, controls, and systems; small business; and transition plan.<sup>1</sup> The solicitation provided detailed descriptions of what would be evaluated under each sub-criterion, and informed offerors that in determining best value, the technical/management criterion would be of significantly greater importance than cost/fee.

The solicitation included detailed instructions for the preparation of proposals, and requested that proposals consist of three volumes, including a technical/management proposal volume and a cost/fee proposal volume. RFP § L.4. The proposal preparation instructions stated that technical/management proposals were to “provide a separate description” for each of the six sub-criteria that comprised the technical/management evaluation criterion. RFP § L.6(c). For example, offerors were instructed that, in their description addressing the medical approach subcriterion (at RFP § L.6(c)(2)), they were to:

Provide a description of [their] proposed medical approach, and how the proposed approach will provide safe, high quality, efficient, and timely delivery of the required occupational health services. The summary shall include a description of the methods, benefits, and rationale for the Offeror’s proposed medical approach and quality assurance practices to accomplish the required occupational health services. Describe the procedures to be used to perform routine evaluations of worker health using medical surveillance data; and the approach and plans to conduct the on-going comprehensive quality assurance program, with particular emphasis on the self-assessment process to be used. The approach shall describe the methods in sufficient detail for the Government to assess the effectiveness of the medical approach.

To assist offerors in the preparation of their proposals, the RFP also provided relevant information from previous years, as well as estimates of the number of annual patient exams and visits.

The agency received four proposals by the RFP’s closing date. The proposals were evaluated, and the agency included the proposals submitted by three offerors, including HEHF (the incumbent contractor) and AdvanceMed, in the competitive range. AR, Tab 7, Source Evaluation Board (SEB) Report, at 7. Written discussions were held, and final revised proposals (FRP) were requested, received, and evaluated. HEHF’s proposal received an evaluated score of 820 out of 1,000 total points, with a most probable cost, as determined by the agency, of \$119,509,516;

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<sup>1</sup> The organization, controls, and systems and small business sub-criteria were considered equal in importance.

AdvanceMed's proposal received 804 points with a most probable cost of \$107,509,953. AR, Tab 8, Source Selection Statement, at 5-6.

The source selection authority (SSA) concluded, based on his review of the evaluation results, that the proposals of HEHF and AdvanceMed were "essentially equal" with regard to technical merit. The SSA noted that "[t]o the extent that the slight difference in point scores (16 out of 1000) [between the proposals] reflects an advantage to HEHF, it is not meaningful." AR, Tab 8, Source Selection Statement, at 7. The SSA determined that the proposal submitted by AdvanceMed represented the best value to the government, and a contract under the RFP was awarded to that firm. After requesting and receiving a debriefing, HEHF filed this protest.<sup>2</sup>

HEHF's protest focuses on the differing staffing levels proposed by it and AdvanceMed. In this regard, HEHF's staffing plan provided for a total of 84 full time equivalent (FTE) personnel; AdvanceMed's staffing plans provided for a total of 67 FTEs. AR, Tab 7F, Technical Evaluation of Revised Cost Proposals, at 3-4. HEHF first argues that "[g]iven the wide disparity in staffing levels . . . there is no rational basis upon which DOE could conclude that [AdvanceMed's] proposed staffing structure could be considered comparable to HEHF's in performing the same work required under the RFP," and that the agency erred in evaluating AdvanceMed's staffing as "responsive to the RFP." Supplemental Protest at 3; Protester's Comments at 7.

In reviewing protests against allegedly improper evaluations, it is not our role to reevaluate proposals. Rather, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the evaluation factors set forth in the RFP. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. The protester's mere disagreement with the agency's judgment does not establish that an evaluation was unreasonable. UNICCO Gov't Servs., Inc., B-277658, Nov. 7, 1997, 97-2 CPD ¶ 134 at 7.

The RFP required that proposals include, among other things, a "complete Staffing Plan, including the required labor categories, number and qualifications of each non-key personnel needed to meet proposed performance expectations." RFP § L.6(c)(4)(i). The solicitation also provided data regarding the staffing levels of the current contractor (that is, HEHF), by position and total number of staff, but specifically advised offerors that this information was provided for "Information Only" and stated that "[t]he proposed staffing levels and skills mix necessary to accomplish the proposed work scopes, are at the discretion of the offeror." RFP, attach. L-3.

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<sup>2</sup> HEHF filed an initial protest on January 6, 2004. Following receipt of various documents provided by the agency in response to the protest, HEHF filed a supplemental protest on February 12.

HEHF's and AdvanceMed's proposals each included staffing plans that included narratives describing each offeror's respective approach along with charts summarizing each offeror's proposed staffing level. For example, AdvanceMed's proposal included, among other things, charts that depicted its proposed organizational structure by labor categories, detailed the specific qualifications associated with each category, and identified the number of FTEs proposed within each category. AR, Tab 12, AdvanceMed's FRP, Vol. II, at 83.

The record here includes comprehensive documentation of the detailed staffing analysis the agency performed in connection with its evaluation of proposals. AR, Tab 7F, Technical Evaluation of Revised Cost Proposals. Among other things, this staffing analysis included a review of the services required by the solicitation, including a review of the "estimated annual medical patient visits" categorized by type, such as "brief visit" or "complex visit." Id. at 2. In evaluating proposals, the agency also prepared a summary of each offerors' proposed staffing by category (such as professional staff/health services), position (such as occupational physicians), and number of FTEs.<sup>3</sup> Id. at 2-4.

The agency's staffing evaluation document also includes various narrative comments regarding the noteworthy aspects of each offeror's proposed staffing plan, observing that "[n]one of the offerors presented the same approach to staffing" and attributing this in part to "differences in individual program philosophies and patient care delivery models."<sup>4</sup> AR, Tab 7F, Technical Evaluation of Revised Cost Proposals, at 4. The agency's staffing analysis sets out specific examples of where the proposed staffing approaches differed from each other and explains why, in the agency's view, each of the offerors' differing staffing levels, considered in conjunction with the approaches proposed, was "sufficient."<sup>5</sup> Id. at 4-10.

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<sup>3</sup> The agency noted that all of the offerors' proposals reflected staffing levels that were lower than the RFP's "example" of an acceptable staffing plan. Id. at 4, n.1.

<sup>4</sup> Among other things, the agency's analysis shows that HEHF and AdvanceMed proposed nearly the same level of FTEs with regard to healthcare professionals (that is, physicians, nurses, physician assistants, etc.), but that HEHF proposed more management, administrative, and support staff. AR, Tab 7F, Technical Evaluation of Revised Cost Proposals, at 2-4.

<sup>5</sup> For example, with regard to variations in proposed management staff, the agency stated, "[t]his variation may be accounted for by differences in corporate structure, such as organizations with home offices [being] capable of providing some necessary management or support functions," and adding, "[i]t is recognized that some are 'working' managers and have dual roles fulfilling both a management and technical function." Id. at 10.

The agency's staffing analysis also included "comparisons . . . with other commonly used occupational health models as promulgated by various Federal and national agencies." AR, Tab 7F, Technical Evaluation of Revised Cost Proposals, at 5. Specifically, this aspect of the agency's evaluation included comparisons of the offerors' proposed staffing plans to the estimated required staffing as calculated using occupational health model formulas of entities including the United States Navy and American Medical Association. Id. at 5-9. The agency concluded as a result of its evaluation that the offerors' "proposed staffing levels are adequate and appear reasonable to complete the scope of work."<sup>6</sup> Id. at 11.

On the record here, HEHF's assertion that it was unreasonable for the agency to evaluate AdvanceMed's lower proposed staffing levels as acceptable suggests that HEHF misunderstands the clearly stated RFP evaluation scheme. As discussed above, the RFP did not establish any particular staffing levels that were required or expected. Rather, the solicitation stated the agency's requirements in terms of desired outcomes and objectives, advised each offeror to prepare its proposal on the basis of its own analysis and proposed approach, and specifically advised offerors that staffing levels necessary to accomplish the contract requirements "are at the discretion of the offeror." RFP, attach. L-3. Accordingly, it would have been inappropriate for the agency to downgrade AdvanceMed's proposal simply because it proposed fewer FTEs than HEHF proposed.

HEHF's protest makes much of the fact that its proposed staffing levels were essentially equivalent to the staffing levels it has used to perform the preceding contract. In this regard, HEHF essentially maintains that its own understanding of the required staffing is superior to that of any other entity, including DOE.<sup>7</sup> Accordingly, HEHF protests that any proposal to perform the contract requirements using a total staffing level lower than that proposed by HEHF should have been

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<sup>6</sup> The record reflects that both AdvanceMed's and HEHF's proposals were evaluated as "adequate" with regard to their proposed staffing, and that AdvanceMed's and HEHF's proposal received 67 and 70, respectively, out of the 100 total points available under the organization, controls and systems evaluation sub-criterion. AR, Tab 7, SEB Report, at 27-28.

<sup>7</sup> HEHF's comments (at 7) responding to the agency report contains the following statement regarding its understanding of the contract requirements:

The DOE Report repeatedly chastises HEHF for thinking it knows more about the RFP requirements than DOE. Frankly, this is indeed the case. . . . DOE has little insight into the staffing needed to perform the requirements of the RFP, which of course itself is shaped by HEHF's 38 years of contract performance.

evaluated as unacceptable. Moreover, despite having access under our protective order to the awardee's proposal and all relevant evaluation documents, the protester has failed to timely identify any specific aspect of AdvanceMed's staffing plan that was inadequate; rather, HEHF merely asserts in conclusory terms that any proposal to perform the contract requirements with staffing levels lower than those proposed by HEHF should have been evaluated as inadequate.<sup>8</sup>

As discussed above, our review of the record leads us to conclude that the agency's evaluation of the offerors' proposed staffing plans was thorough and detailed, taking into consideration multiple aspects of each offeror's proposed approach. Specifically, the agency considered the organizational structures of the staffing plans, the number and type of personnel proposed, as well as the relationship of the offerors' staffing plans to their proposed medical approaches. On this record, HEHF's protest challenging the agency's evaluation constitutes, at best, mere disagreement with the agency's judgments. Accordingly, we find no basis to question the agency's evaluation of AdvanceMed's proposed staffing plan. See Decision Sys. Techs., Inc.; NCI Info. Sys., Inc., B-257186 et al., Sept. 7, 1994, 94-2 CPD ¶ 167 at 9; Ogden Gov't Servs., B-253794.2, Dec. 27, 1993, 93-2 CPD ¶ 339 at 9.

Next, HEHF protests that the agency failed to engage in meaningful discussions, contending that the agency should have informed HEHF that its proposed staffing

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<sup>8</sup> In its comments responding to the agency report, submitted to our Office on March 8, 2004, HEHF argues, for the first time, that AdvanceMed's staffing is inadequate in two specific respects--the number of personnel proposed for senior management positions and the number of personnel proposed to schedule medical examinations. Protester's Comments at 7. These specific allegations were not timely submitted. In order for our Office to meaningfully consider protest allegations, our Bid Protest Regulations require that protest issues such as these be presented within 10 days after the basis for protest is known, or should have been known. 4 C.F.R. § 21.2(a)(2) (2004). The piecemeal presentation of protest issues is not permissible; rather, each protest ground must independently satisfy the timeliness requirements. Armstrong Motorcycles Limited, B-238436, June 5, 1990, 90-1 CPD ¶ 531 at 3-4. Here, counsel for HEHF received the awardee's proposal, along with all evaluation and source selection documents, by February 2. However, HEHF failed to identify any specific alleged flaws in AdvanceMed's staffing plan until HEHF made its final record submission on March 8. Since these issues were not raised in any preceding submission, the agency had no opportunity to meaningfully address these specific allegations. Accordingly, this aspect of HEHF's protest is untimely and will not be considered. See Sierra Military Health Servs., Inc.; Aetna Gov't Health Plans, B-292780 et al., Dec. 5, 2003, 2004 CPD ¶ \_\_\_\_ at 13 n.9; see LeBoeuf, Lamb, Greene & MacRae, B-283825, B-283825.3, Feb. 3, 2000, 2000 CPD ¶ 35 at 11-12.

and associated labor costs “were so high that its proposal had no chance for award.” Protester’s Comments at 2.

When an agency engages in discussions with an offeror, the discussions must be meaningful. Training and Mgmt. Res., Inc., B-234710, June 29, 1989, 89- 2 CPD ¶ 12. However, this requirement does not obligate an agency to spoon-feed an offeror, ITT Fed. Sys. Int’l Corp., B-285176.4, B-285176.5, Jan. 9, 2001, 2001 CPD ¶ 45 at 7, nor does it create an obligation for agencies to conduct successive rounds of discussions until all proposal defects have been corrected. OMV Med., Inc., B-281490, Feb. 16, 1999, 99-1 CPD ¶ 38 at 7. Rather, an agency’s discussion questions must simply lead an offeror into the areas of its proposal that require correction or amplification. Creative Mgmt. Tech., Inc., B-266299, Feb. 9, 1996, 96-1 CPD ¶ 61 at 4.

Here, the record shows that, during discussions, the agency asked HEHF certain questions regarding HEHF’s proposed staffing plan. AR at 36. Among other things, the agency’s written discussions with HEHF included the following:

Your proposal could be altered to more effectively describe how your proposed staffing mix relates to the accomplishment of the scope of work described in the RFP Section C. The Government requests additional information to better understand how the proposed staffing mix will be utilized to perform the occupational medical services and to better understand what specific functions/activities and roles/responsibilities the staff will perform.

AR, Tab 7, SEB Report, at 12.

Further, in the discussions with HEHF, the agency informed HEHF that its “complete staffing plan . . . should provide a description and justification of how each non-key person will be used.” AR, Tab 6, HEHF Discussion Questions, at 4. We view these questions as reasonably leading HEHF into the area of its proposal that it needed to address, that is, its proposed staffing plan. To the extent HEHF is suggesting that the agency should have specifically advised HEHF that its proposed staffing level was higher than that proposed by a competing offeror, HEHF is mistaken. It would have been inappropriate for the agency to assess and discuss HEHF’s staffing levels on the basis of a differing technical approach proposed by a competing offeror. Ogden Gov’t Servs., supra, at 9.

Alternatively, HEHF protests that the agency engaged in unequal discussions, arguing that the agency “went out of its way to save [AdvanceMed’s] bacon” by informing AdvanceMed during discussions that it believed that AdvanceMed’s proposed principal manager did not meet certain of the RFP’s minimum education and experience requirements for that position. Protester’s Comments at 10; see AR, Tab 5, AdvanceMed Discussion Questions, at 3. Contrary to HEHF’s view, the agency’s identification during discussions that the principal manager AdvanceMed



initially proposed did not meet certain minimum requirements for that position is evidence of meaningful, rather than unequal, discussions. In this regard, in order for discussions to be meaningful, an agency must advise offerors of weaknesses or deficiencies in their proposals to afford offerors an opportunity to revise their proposals to fully satisfy the agency's requirements. Biospherics, Inc., B-285065, July 13, 2000 CPD ¶ 118 at 5. The agency's view that one of AdvanceMed's proposed key personnel--the principal manager--did not meet the minimum requirements of the RFP was just such a deficiency that the agency was required to identify during discussions. See TS Group, B-249217.2, Nov. 24, 1992, 92-2 CPD ¶ 371 at 5.

HEHF next protests that the agency's evaluation of AdvanceMed's cost proposal was improper due to the fact that AdvanceMed proposed a lower fringe benefit rate than that proposed by HEHF (which essentially reflected the fringe benefit rate paid under HEHF's incumbent contract). HEHF argues that, in order to retain the incumbent staff, AdvanceMed will incur a fringe benefit rate comparable to that proposed by HEHF, and paid by HEHF under its incumbent contract.<sup>9</sup> Accordingly, HEHF maintains that the agency should have significantly increased AdvanceMed's proposed fringe benefit rate in evaluating its cost proposal. Supplemental Protest at 5; Protester's Comments at 8.

When an agency evaluates proposals for the award of a cost reimbursement contract, an offeror's proposed estimated costs are not considered controlling, because regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. Federal Acquisition Regulation (FAR) §§ 15.305(a)(1); 15.404-1(d). 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. FAR § 15.404-1(d)(2); TRW, Inc., B-282162, B-282162.2, June 9, 1999, 99-2 CPD ¶ 12 at 5. A cost realism analysis is the process of independently reviewing and evaluating specific elements of each offeror's cost estimate to determine whether the estimated proposed cost elements are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the unique methods of

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<sup>9</sup> The RFP required that, with regard to non-management positions, the successful offeror must "provide the right of first refusal in hiring qualified employees . . . from the workforce of the incumbent contractor," and added that if the positions for which the incumbent employees are hired "entail duties and responsibilities substantially equivalent to the positions last held with the incumbent contractor," the employees are to be paid "salary/pay rates equivalent to the base salary/pay rates paid by the incumbent at the time of the offer." RFP § H.12. Id. However, in response to offeror's questions, the agency specifically advised offerors that the solicitation did "not require [that the] awardee offer the same or an equivalent benefits package." RFP Questions & Answers.

performance and materials described in the offeror's proposal. FAR § 15.404-1(d)(1); Advanced Communications Sys., Inc., B-283650 et al., Dec. 16, 1999, 2000 CPD ¶ 3 at 5. The evaluation of competing cost proposals requires the exercise of informed judgment by the contracting agency involved, since it is in the best position to assess the realism of cost and technical approaches and must bear the burden resulting from a defective cost realism analysis. Because the contracting agency is in the best position to make this determination, we review an agency's judgment in this area only to see that the agency's cost realism evaluation was reasonably based and not arbitrary. TRW, Inc., supra, at 5-6.

The record reflects that, in its initial proposal, AdvanceMed proposed a fringe benefit rate of [DELETED] percent. AR, Tab 23, AdvanceMed Initial Proposal/Cost, at 2. In evaluating AdvanceMed's proposed costs, the agency noted that the Defense Contract Audit Agency (DCAA), which reviewed the labor rates proposed by AdvanceMed for the performance of this contract, did not take exception to AdvanceMed's proposed fringe benefit rate. AR, Tab 7C, AdvanceMed Price Analysis Report, at 6. Nevertheless, in evaluating AdvanceMed's initial proposal, the agency noted that the proposed fringe benefit package reflected a rate "at the low end of the range for the industry average for the eastern Washington area," and that AdvanceMed's initial proposal did not sufficiently address the risk this might pose for recruiting and retaining qualified staff, informing AdvanceMed of this concern during discussions. AR, Tab 5, AdvanceMed Discussion Questions, at 6.

AdvanceMed responded by explaining in its FRP, as it had similarly stated in its initial proposal, that its fringe benefit package was "designed to provide ample time away from the job for relaxation, as well as protection against unforeseen hardships," was based on DCAA approved forward pricing rates, and was intended to "keep the Company competitive in the labor market." AR, Tab 13, AdvanceMed FRP/Cost, at 2-3. Nevertheless, AdvanceMed's FRP also provided that AdvanceMed's fringe benefit package would "transition" to its parent company's (Computer Sciences Corporation (CSC)) fringe benefit package on January 1, 2004.<sup>10</sup> AR, Tab 13, AdvanceMed FRP/Cost, at 3.

In evaluating AdvanceMed's FRP, the agency determined, based on information provided by DCAA, that CSC had a "corporate fringe benefit rate of [DELETED] [percent]." AR, Tab 7C, AdvanceMed Price Analysis Report, at 7. Based on publicly available information regarding commercial fringe benefit rates, the agency determined that this rate was "comparable to current commercial fringe benefit rates in the local area." Id. Accordingly, because the [DELETED] percent rate would be effective on January 1, 2004, the agency upwardly adjusted AdvanceMed's proposed costs by [DELETED], to account for this higher fringe benefit rate. Id.

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<sup>10</sup> CSC had recently purchased DynCorp, AdvanceMed's parent company.

The source selection board and SSA noted that although AdvanceMed’s adjusted fringe benefit rate was comparable to the local area commercial rate, it was lower than the rate under the incumbent contract, and that because of this, there was a “risk that AdvanceMed may have difficulties in retaining current staff.” AR, Tab 7F, Technical Evaluation of Revised Cost Proposals, at 25; see Tab 8, Source Selection Statement, at 6. In this regard, the agency recognized that “[i]ncumbent employee reaction is dependent upon how they perceive the benefits package and the labor market at the time of contract transition.” AR, Tab 7F, Technical Evaluation of Revised Cost Proposals, at 25. The agency further reasoned that, although the area in which Hanford is located “is growing and as such, fields such as nursing, physician assistants and medical technicians are in demand,” this consideration was “offset . . . [by] the increased enrollment and expanded coursework in nursing programs within the region.” Id. In short, the agency concluded, after considering a variety of factors and recognizing certain risks, that AdvanceMed’s proposed fringe benefit rate was reasonable.

HEHF’s cost proposal provided for a fringe benefit rate of [DELETED] percent, which the agency found to be “significantly higher than the regional healthcare industry norm of 33-37 [percent].” AR, Tab 7A, HEHF Price Analysis Report, at 4. Because of this, the agency noted in discussions with HEHF that “HEHF has proposed a fringe benefit package that is at a rate significantly higher than the industry average for the eastern Washington area without explaining why this rate is necessary for performance of the [contract].” AR, Tab 6, HEHF Discussion Questions, at 4-5. In response, HEHF declined to revise its proposed rate, maintaining that the rate was “realistic and appropriate.” AR, Tab 14, HEHF FRP/Cost, at 28.

HEHF argues that because AdvanceMed’s fringe benefit rate is significantly lower than the rates proposed by HEHF (and lower than the rates previously paid by HEHF under the predecessor contract), it was unreasonable for the agency to accept AdvanceMed’s proposed fringe benefit rate without adjustment.<sup>11</sup>

Here, as discussed above, the record reflects the agency’s reasonable review and consideration of various factors affecting AdvanceMed’s proposed fringe benefit rate, and its determination that the corporate fringe benefit rate of AdvanceMed’s parent company was reasonable and realistic; this determination was based, in part, on the agency’s conclusion that a [DELETED] percent fringe benefit rate was comparable to the area commercial rates. The fact that HEHF, the incumbent contractor, proposed a higher fringe benefit rate than AdvanceMed provides no basis, standing alone, to conclude that the agency’s determination was unreasonable.

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<sup>11</sup> Alternatively, HEHF contends that the agency erred in that it “made no change in its technical evaluation of [AdvanceMed’s] proposal to account for staff retention risks.” Protester’s Comments at 8.

Wyle Labs., Inc., B-288892, B-288892.2, Dec. 19, 2001, 2002 CPD ¶ 12 at 17; see Calspan Corp.; B-255268, Feb. 22, 1994, 94-1 CPD ¶ 136 at 8, recon. denied, B-255268.2, July 5, 1994, 94-2 CPD ¶ 6. Additionally, HEHF's assertion that the evaluation was flawed because the agency failed to recognize that AdvanceMed may have some difficulty retaining incumbent personnel given its lower fringe benefit rate is contrary to the record. As noted above, the agency evaluators, as well as the SSA, specifically recognized the existence of risk created by AdvanceMed's proposed fringe benefit rate in the context of AdvanceMed's ability to the retain incumbent personnel. AR, Tab 7F, Technical Evaluation of Revised Cost Proposals, at 25; Tab 8, Source Selection Statement, at 6.

Finally, HEHF protests that the agency's cost realism analysis reflected certain mathematical errors resulting in improper additions to HEHF's cost proposal totaling \$1,550,102. Protest at 3. Competitive prejudice is necessary before we will sustain a protest; where the record does not demonstrate that the protester would have had a reasonable chance of receiving award but for the agency's actions, we will not sustain a protest, even if deficiencies in the evaluation process, such as the unreasonable or unequal evaluation of proposals, are found. Leisure-Lift, Inc., B-291878.3, B-292448.2, Sept. 28, 2003, 2003 CPD ¶ \_\_ at 10; Metropolitan Interpreters & Translators, B-285394.2 et al., Dec. 1, 2000, 2001 CPD ¶ 97 at 9. In light of our determination, above, that the agency reasonably evaluated HEHF's and AdvanceMed's proposals as "essentially equal" with regard to technical merit, even if HEHF's evaluated cost should have been \$1,550,102 lower, there was no competitive prejudice to HEHF because HEHF's evaluated price was reasonably found to be approximately \$12 million lower than AdvanceMed's.

The protest is denied.

Anthony H. Gamboa  
General Counsel