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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-200756.2

DATE: November 2, 1981

MATTER OF: Monitor International, Inc. -- Agency Request
For Reconsideration.

DIGEST:

1. Where agency reiterates reason for limiting competitive range which already was considered as part of original protest record, matter will not be considered further.
2. Agency has not performed adequate cost realism analysis when it fails to examine basis of provisional overhead rates and all other costs proposed by all offerors for a cost reimbursement type contract.
3. Where competitive range was based on final results of combined technical and cost evaluation which placed great emphasis on cost, agency's failure to conduct adequate cost analysis left it in no position to determine that any proposal was out of line as to price and technical ability so that further discussions would be meaningless.

The Agency for Volunteer Service (ACTION) requests reconsideration of our decision, Monitor International, Inc., B-200756, September 14, 1981, 81-2 CPD 214. We sustained Monitor's protest against ACTION because we found that the agency unreasonably excluded all offerors but one, CHP International, Inc., from the competitive range under Request for Proposals (RFP) No. 80-19. The RFP solicited proposals for a cost reimbursement contract to obtain training for Peace Corps volunteers in Paraguay.

We found that ACTION improperly factored unanalyzed and potentially unrealistic cost estimates into the RFP's evaluation formula, the results of which were used to

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determine a competitive range limited to CHP, the eventual awardee. As a remedy, we recommended that ACTION not exercise an option to extend the CHP contract after completion of the initial year of performance, and that ACTION take steps to avoid recurrence of the procurement deficiencies noted in the decision.

ACTION has advised us that it will follow our recommendation and not exercise the CHP contract option. The agency, however, requests reconsideration of our decision for the following three reasons discussed individually below.

- I. "[T]o have conducted negotiations with Monitor International, Inc., when the firm had little or no likelihood of success based upon its technical score and proposed costs, would have merely imposed additional expenses upon the company."

Section 21.9(a) of our Bid Protest Procedures, 4 C.F.R. Part 21 (1981), requires that a request for reconsideration specify any errors of law made or information not previously considered in the protest. In this regard, the above quoted argument is merely a reiteration of an argument previously raised by ACTION and considered in the original protest. Therefore, this initial argument provides no basis for further consideration. W.M. Grace, Inc.--Request for Reconsideration, B-202842.2, September 21, 1981, 81-2 CPD 230.

- II. "The protester certified to the accuracy and reasonableness of its proposed indirect cost rate. To anticipate, as your decision does, that the protester would and could substantially reduce indirect costs during negotiation would clearly question the cost realism of its proposal."

Our decision did not anticipate that Monitor's indirect costs would necessarily be reduced. In the original decision, we found that ACTION's direct comparison of the unanalyzed estimated costs proposed by Monitor and CHP presented an inaccurate picture of the differences in the two costs and failed to provide sufficient indication that CHP's lower cost estimate was realistic. We compared the proposed costs of Monitor and CHP and found the most significant difference to be in the area of indirect costs which were based on the provisional overhead rates (subject to post-contract award negotiations) proposed by each firm: 14 percent of direct costs for CHP, and 33.215 percent of direct costs for Monitor. In this regard we held:

"[A] cost difference derived from a provisional overhead rate is one factor among many which may be considered in an analysis of proposed costs. There is nothing in the instant record, however, to indicate that ACTION analyzed the bases for the provisional overhead rates submitted with the proposals. In establishing a competitive range, where the regulatory preference is to include rather than exclude competitors, we believe that it is unreasonable to place the great weight that ACTION did on the difference in indirect costs stemming from CHP's and Monitor's provisional overhead rates without examining the bases for the rates."

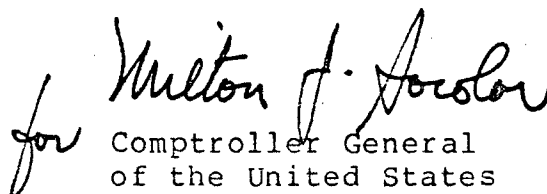
Thus our decision was concerned with the lack of any cost realism analysis of either proposal, with indirect costs being only one significant factor which should have been considered.

III. "ACTION did not exclude all offerors but one from the competitive range because of their high costs. ACTION's determination was based upon the substantial difference in the technical quality of the competing proposals, as well as cost differentials. We believe the protester's proposal was so technically inferior and out of line as to price that any discussions would have been meaningless."

In the original decision, we recognized that Monitor received a significantly lower technical rating than CHP, however, ACTION based its competitive range determination on the final results of a combined technical and cost evaluation formula which placed great emphasis on proposed costs.

By failing to conduct an adequate cost analysis, ACTION was not in a position to determine that any proposal was "out of line as to price" so that that factor, coupled with any technical deficiencies, would make further discussion with a particular firm meaningless.

Our decision is affirmed.

for 
Comptroller General
of the United States