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Decision

Matter of: The Futures Group International

File: B-281274.2

Date: March 3, 1999

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Joseph C. Port, Jr., Esq., and Howard Stanislawski, Esq., Sidley & Austin, for Deloitte Touche Tohmatsu, an intervenor.
Karen Doswell, Esq., and A. Lindsey Crawford, Esq., United States Agency for International Development, for the agency.
Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Cost realism analysis that accepted as realistic the awardee's proposed indirect rates that were significantly below its most recent indirect rate cost submission is not reasonably supported.

2. Agency reasonably determined that the awardee's proposed research director met the solicitation's minimum qualifications for this key personnel.

3. Past performance evaluation is reasonable, notwithstanding a lack of contemporaneous documentation, where the technical evaluators reasonably explained during the course of the protest why the awardee's past performance was rated as outstanding.

DECISION

The Futures Group International protests the award of a contract to Deloitte Touche Tohmatsu under request for proposals (RFP) No. M\OP-98-918, issued by the United States Agency for International Development (USAID), to implement a project intended to increase access to family planning and other reproductive health products and services obtained through the commercial and private sectors in developing countries. Futures contends that the evaluation of Deloitte's proposal was unreasonable.

We sustain the protest.

The RFP implements USAID's latest strategy for encouraging family planning services in developing countries. It is designed to build commercial markets for family planning and other health products and services in low and middle-income populations in developing countries through social marketing and partnerships with the private and commercial sectors. Under the RFP, USAID also seeks to expand the funding possibilities for market building activities through exploring and employing a broad range of public, private and commercial financing mechanisms through the SUMMA Foundation.[1] RFP §§ C.1, C.2. The RFP contemplates fulfilling these requirements under a cost-plus-award-fee contract for a 5-year period. RFP §§ B.2, B.4.

The RFP contemplated a best-value award considering technical, past performance, and cost realism. The technical evaluation factors, listed in descending order of importance, were technical approach, key personnel, and management plan. RFP § M.1(a). The past performance factor was said to be equal in importance to all technical factors combined. RFP § M.4(a). The RFP also stated that the combination of all evaluation factors other than cost were significantly more important than cost. RFP § M.2(d). The RFP provided for the evaluation of cost on the basis of realism, and contemplated that proposed costs may be adjusted based on the results of the cost realism evaluation, resulting in the adjusted cost being used in the evaluation of cost. RFP § M.3.

Futures and Deloitte submitted proposals by the closing date of July 15, 1998. A technical evaluation panel (TEP) evaluated the proposals, and assigned Futures' proposal a rating of outstanding and Deloitte's proposal a rating of better. Agency Exhibit No. 3, Technical Evaluation Memorandum at 5. USAID also states that it performed a cost evaluation of the proposals, which analyzed and compared the individual cost elements of the proposals. USAID Report, Nov. 12, 1998, at 17-19.

The agency then conducted discussions with the offerors by letter dated August 11, and received best and final offers (BAFO) by September 8. The final evaluation rated both Futures' and Deloitte's proposals as outstanding under all of the technical and past performance factors, although Futures' proposal was considered slightly superior overall. Agency Exhibit No. 2, Negotiation Memorandum at 7; see Agency Exhibit No. 8, Supplemental Technical Evaluation, Sept. 11, 1998, at 1, attachment.

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[1] The SUMMA Foundation was created in 1992 to conduct and administer investments of grant funds for family planning in developing countries.

Deloitte's proposed BAFO cost was $87,904,406 and Futures' proposed BAFO cost was $94,290,894. USAID determined that the proposed costs were reasonable and realistic and made no probable cost adjustments. Agency Exhibit No. 2, Negotiation Memorandum at 7, 16; Hearing Transcript (Tr.) at 29, 38, 70-71.[2] USAID determined that Deloitte's proposal represented the best value because it received the same outstanding rating as Futures' proposal with a significantly lower cost. Agency Exhibit No. 2, Negotiation Memorandum at 7. Award was made to Deloitte on September 28. This protest followed.[3]

Futures protests the propriety of USAID's cost realism evaluation of Deloitte's proposal, arguing, among other things, that it was unreasonable for the agency to accept Deloitte's proposed overhead and general and administrative (G&A) rates because they were at levels significantly below Deloitte's 1997 rates.

When an agency evaluates proposals for the award of a cost-reimbursement contract, an offeror's proposed estimated cost of contract performance 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. Consequently, the agency must perform a cost realism analysis to determine the realism of the offeror's proposed costs and to determine what the costs are likely to be under the offeror's technical approach, assuming reasonable economy and efficiency. Federal Acquisition Regulation (FAR) § 15.404-1(d)(1), (2); <u>Tidewater Constr. Corp.</u>, B-278360, Jan. 20, 1998, 98-1 CPD ¶ 103 at 4. Proposed costs should be adjusted when appropriate based on the results of the cost realism analysis. FAR § 15.404-1(d)(2)(ii). Our review of an agency's cost realism evaluation is limited to determining whether the cost analysis is reasonably based. <u>Tidewater Constr. Corp.</u>, <u>supra.</u>

Deloitte's cost proposal contained a [DELETED] overhead rate and a [DELETED] G&A rate.[4] Agency Response No. 2, Deloitte Cost Proposal § B.5. Because Deloitte did not have a negotiated indirect cost rate agreement on file with the agency,[5] the agency contacted USAID's Overhead, Close Out, and Special Cost Division of the

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[2] A hearing was conducted to examine the basis for the agency's cost, key personnel, and past performance evaluations.

[3] On October 21, the agency determined that it was in the government's best interests to proceed with contract performance.

[4] Deloitte did not offer to cap its proposed rates.

[5] Futures' indirect rates were on file and its proposal contained the same rates.

Contract Audit Management Branch of the Office of Procurement (OCC).[6] Agency Exhibit No. 24, Declaration of [DELETED], Dec. 11, 1998, at 2. OCC advised that Deloitte had made an incurred cost submission in 1997 that showed an overhead rate of [DELETED] and a G&A rate of [DELETED]. Id; Agency Exhibit No. 21, e-mail from [DELETED], Sept. 23, 1998; Tr. at 31-32. According to the protester's calculations, if the higher historic rates are applied to Deloitte's proposed costs instead of Deloitte's proposed rates, it would cause Deloitte's evaluated costs to be increased by more than $14 million such that Deloitte's evaluated costs would be significantly higher than Futures' proposed costs. Protester's Comments, Jan. 22, 1999.

The contemporaneous evaluation record evidences that although USAID was aware of and concerned about the discrepancy between Deloitte's proposed indirect rates and recent historic indirect rates, it did not resolve this discrepancy. Deloitte's proposal does not explain or justify why its indirect rates were substantially less than those reflected in its 1997 indirect cost submission. See Agency Exhibit No. 12 and Response No. 2, Deloitte Proposal and Proposal Revisions; see Tr. at 60-61. The only record of the advice provided by OCC to the contracting office on this matter states:

> The new award of approximately $18 M per year should reduce [overhead] OH & G&A rates. They have proposed substantially lower OH rate of [DELETED] and a G&A rate of [DELETED] on your award. Our disagreement with respect to the indirect cost base of allocation will not reduce the '97 submission below the proposed rate of [DELETED].[7]
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> Since OCC does not have more current information i.e. '98 [year to date (YTD)] actuals, we recommend that you use the FY '97 incurred cost submission since that is the most current available. Since the proposed provisional rates for the OH & G&A rates are lower than the rates included in the incurred cost submission, we recommend that you use ceiling rates for the OH and G&A rates.[8]

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[6] OCC is the USAID office responsible for negotiating forward pricing provisional rates, provisional indirect cost rates, and final indirect cost rates in contracts with the agency. Tr. at 159.

[7] The OCC had found that there were some discrepancies in Deloitte's proposed methods of allocating costs to its indirect cost pools.

[8] The OCC also noted that Deloitte's accounting system had never been reviewed and that no pre-award audit was performed on Deloitte. The OCC official testified that (continued...)

Agency Exhibit No. 21, e-mail from [DELETED], Sept. 23, 1998. In documenting the cost evaluation supporting the award selection, USAID reported:

> OCC does not have more current information i.e. 1998 YTD actuals, OCC recommends to use FY 1997 incurred cost submission since that is the most current available data. Since the provisional rates for the O/H & G&A rates are lower than the rates included in the incurred cost submission, it is recommended that ceiling rates be used for the O/H and G&A rates. Since the home office O/H rate is proposed at [DELETED] which is below the 1997 submission of [DELETED], [Contract Information Bulletin] CIB 92-17[9] requires that a ceiling provision be incorporated into the award. The O/H base allocation is direct labor and fringe benefits.
>
> Since the G&A rate is proposed at [DELETED] which is below the 1997 submission of [DELETED], CIB 92-17 requires that a ceiling provision be incorporated into the award. The G&A base of allocation is total direct cost including applicable fringe and overhead costs.

Agency Exhibit No. 2, Negotiation Memorandum at 9. In awarding the contract, USAID included caps on Deloitte's overhead and G&A rates; however, these caps were at the [DELETED] rates contained in Deloitte's 1997 indirect rate submission, not the [DELETED] rates proposed.[10] USAID Supplemental Report, Dec. 23, 1998, attachment, Deloitte Contract § B.6.

We think that the contemporaneous record, which contains only an undocumented, conclusory statement that obtaining the revenues from this contract should lower Deloitte's indirect rates, evidences that USAID had no reasonable basis to find Deloitte's proposed rates realistic. In this regard, Deloitte's cost proposal does not support its proposed indirect rates or justify rates substantially lower than its historic rates, nor does it claim that the firm's proposed rates were lower because they were based on the receipt of this contract. Agency Exhibit No. 24, [DELETED] Declaration, Dec. 11, 1998, at 2-3; Tr. at 30-61, 109-10. Moreover, the OCC representative stated only that receiving this contract "should" lower the indirect

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(...continued)
there are risks associated with awarding a cost reimbursement contract without a pre-award audit to a contractor who has never had an accounting system review, and that pre-award audits should be performed in a cost reimbursement contract of this magnitude. Tr. at 179-81.

[9] CIB 92-17 is USAID internal agency guidance.

[10] The contract specialist testified at the hearing that capping the rates at the higher historical rates, rather than the proposed rates, was an error. Tr. at 42-43.

rates from those shown in the 1997 incurred cost submission, with no comment or estimate as to how much they would be lowered. Agency Exhibit No. 21, e-mail from [DELETED], Sept. 23, 1998. While it may be that a determination of the effect of the change that this contract would have on Deloitte's actual indirect rates could have been estimated based upon an analysis of the 1997 incurred cost submission, no such analysis has been provided during the course of this protest.
See Tr. at 109-10, 116, 181-82.

What remains in the contemporaneous record is OCC's advice to the contracting office that the much higher historical rates contained in Deloitte's 1997 incurred cost submission should be used, since there was not sufficient information to determine Deloitte's significantly reduced proposed rates realistic, but if these latter rates were accepted they were required by agency guidance to be capped. Agency Exhibit No. 21, e-mail from [DELETED], Sept. 23, 1998. Despite this advice, USAID did not explain in its cost analysis why Deloitte's higher historic indirect rates were not a better indicator than Deloitte's proposed rates of what that firm's actual indirect rates would be under the contract.

In its report on the protest, USAID stated that it found the significantly lower overhead and G&A rates proposed by Deloitte were realistic because

> [O]CC, on the basis of its own understanding and review of historical Deloitte data, as well as its understanding that Deloitte's proposed indirect rates reflected anticipated increased contract revenues derived principally from [this] contract, concluded that Deloitte's proposed indirect cost rates were realistic even though they were considerably [lower] than . . . its 1997 indirect rates . . . .

USAID Supplemental Report, Dec. 14, 1998, at 11; see Agency exhibit No. 24, [DELETED] Declaration, Dec. 11, 1998, at 3.

As indicated, there is no contemporaneous documentation that confirms that OCC provided any such advice. At the hearing, the pertinent OCC official testified that he did not make any recommendations to the contract specialist regarding the cost realism of Deloitte's rates, nor did he otherwise assist the contract specialist with the cost evaluation. Tr. at 171-72, 181, 188, 190-92. The contract specialist at the hearing confirmed that the determination that the overhead and G&A rates were reasonable was made without the assistance of OCC. Tr. at 31. Thus, the record does not support the justification advanced in USAID's agency report for finding Deloitte's proposed indirect rates realistic.

At the hearing, the contract specialist testified that he determined Deloitte's overhead and G&A rates to be realistic and reasonable, though significantly lower than that reflected in the incurred cost submission, because he found that Deloitte proposed to form a Washington, D.C. office solely devoted to the contract and because he believed that the additional revenues from this and other contracts would result in lower Deloitte indirect rates.[11] Tr. at 30. In their post-hearing comments, both USAID and Deloitte argue that it was reasonable for the contract specialist to determine the proposed [DELETED] overhead rate realistic because Deloitte intended on forming a Washington office and Deloitte's 1997 incurred cost submission reflects an overhead rate of [DELETED] for this suboffice.[12] USAID Post-Hearing Comments, Feb. 9, 1999, at 12; Deloitte's Post-Hearing Comments, Feb. 9, 1999, at 16-18; see Agency Exhibit No. 22, Deloitte 1997 Overhead Expenses Table, Mar. 31, 1998, at 1 (1997 incurred cost submission). USAID also again contends that the agency reasonably concluded that Deloitte might experience increased revenues resulting from the contract, which would reduce Deloitte's G&A. USAID Post-Hearing Comments, Feb. 9, 1999, at 12-13.

The record does not support USAID's last-advanced rationale for determining Deloitte's indirect rates realistic. Save the testimony of the contract specialist and the representations of Deloitte's at the hearing, the record does not contain any evidence that the agency found Deloitte's overhead rate reasonable because Deloitte's Washington office was considered a suboffice with separate indirect rates for accounting purposes. While USAID and Deloitte maintain that a review of the 1997 incurred cost submission leads to this conclusion, the contract specialist testified that he did not actually review the details contained in this submission and is not familiar with the elements of Deloitte's indirect rates. Tr. at 62, 116-17. Of even greater significance is the fact that neither Deloitte's technical nor its cost proposal attributes the proposed overhead rate to the treatment of the Washington office as a suboffice.[13] See Agency Exhibit No. 12 and Response No. 2, Deloitte

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[11] USAID had not previously mentioned a Deloitte Washington, D.C. suboffice as a reason for Deloitte's low proposed indirect rates.

[12] At the hearing, Deloitte for the first time represented that the [DELETED] overhead rate reflected a blended rate comprised of Deloitte's suboffice overhead rate of [DELETED] and non-suboffice rate of [DELETED] and that Deloitte was proposing to separately cost overhead at the suboffice rate, as evidenced by the establishment of a Washington office under the contract. See Tr. at 112-14, 176. As indicated, this was not mentioned or described in Deloitte's proposal.

[13] Although Deloitte now describes the Washington office as its suboffice for accounting purposes, its technical proposal did not refer to the office as such and its cost proposal attributed the indirect rate to the home office, which is the category denoted on the 1997 overhead expense sheet accounting for the [DELETED] historical overhead rate. Thus, we fail to see how the contract specialist could reasonably have determined that [DELETED] was the correct historical rate to apply for evaluation purposes, even if he had reviewed Deloitte's 1997 submission (without seeking further explanation from Deloitte).

Technical Proposal at 3.4.1 and Cost Proposal § B.5 and ¶ 5.a. Moreover, as discussed above, the record does not reasonably support a finding that Deloitte would achieve its low proposed rates by virtue of the revenues from this contract.

Because the record does not reasonably support the agency's acceptance of the realism of Deloitte's significantly lower proposed indirect rates,[14] we conclude that the evaluation lacked a reasonable basis, and we sustain the protest for this reason.[15] See Hughes STX Corp., B-278466, Feb. 2, 1998, 98-1 CPD ¶ 52 at 7-9.

Next, Futures protests that Deloitte's research director did not meet the minimum experience requirements set forth in the RFP for that position.

In considering protests of an agency's evaluation of proposals, we examine the record to determine whether the agency's judgment was rational and consistent with stated evaluation criteria. Abt Assocs. Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. Based on our review, we conclude that USAID reasonably evaluated Deloitte's proposal under the key personnel factor.

The RFP stated with regard to the key personnel factor:

> Evaluation will be based on the extent to which personnel resumes submitted by the offeror clearly as a minimum meet, or exceed, the

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[14] On February 2, 1999, after the hearing, the agency advised our Office that the contract had been modified to incorporate ceiling rates to reflect those overhead and G&A rates contained in Deloitte's cost proposal. USAID Supplemental Report, Feb. 2, 1999, at 3. Since this had no bearing on the agency's cost evaluation, it does not change the outcome of our decision.

[15] Futures also protests that the cost evaluation was unreasonable because the agency did not perform an adequate probable cost analysis by independently determining what the costs would be under each offeror's technical approach, as is required for a cost realism analysis. FAR § 15.404-1(d). Although the agency claims that the evaluation considered the realism of offerors' costs from the standpoint of their individual technical approaches and that no probable cost adjustments were necessary, USAID Report, Dec. 14, 1998, at 9 n.4; Tr. at 28, 115, 148, the contemporaneous documentation suggests that the elements of costs contained in each offeror's proposal were merely compared to each other without necessarily considering the offerors' individual technical approaches. See Agency Exhibit Nos. 15 and 15A, Spreadsheets; Agency Exhibit No. 2, Negotiation Memorandum, at 7-10. While we do not conclude from the limited documentation of record that cost adjustments should have been made to the offerors' costs, the agency should consider all aspects of the offerors' cost proposals in the cost realism analysis recommended in this decision.

> education and experience required by the labor category qualifications in Section C. To be considered, all key personnel must have letters of commitment in the proposal, and be available full-time unless exempted . . . and otherwise comply with the requirements in Section L for Key Personnel.

RFP § M.1(a)(II).

Sections C.4.2(g) and L.8(c)(2) of the RFP contained very specific minimum qualifications for the four key personnel, including the research director. The RFP required resumes be submitted for these positions showing their compliance with the minimum qualification requirements or how these requirements were exceeded. RFP §§ L.8(c)(2), M.1(a)(II). With regard to the research director, the RFP stated that:

> The Research Director shall have an earned PhD in the social sciences with demonstrated experience in designing and implementing project monitoring and evaluation programs and research activities in donor-funded programs in the developing world . . . [and] meet the following qualifications:
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> > --Five years experience as Senior Research Manager for a complex, donor-funded development contract or program in the developing world;
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> > --five years of direct experience in data collection and analysis;
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> > --familiarity with USAID Re-engineering Principles and requirements for program monitoring, evaluation and reporting;
> >
> > --demonstrated competence in managing professional and technical staff.

RFP § L.8(c)(2)c.(2).

Futures asserts that the research director proposed by Deloitte was formerly employed by Futures from 1993 to 1997 and was a graduate student prior to that time. Futures further advises that this individual was initially employed as a senior research specialist and was later promoted to senior research scientist, and that at no time did this individual serve as a senior research manager, nor did his duties involve any material management responsibilities. Finally, Futures states that this individual's duties did not involve data collection and analysis, design of monitoring or evaluation, or management of a professional and technical staff, as required by the RFP. <u>See</u> Protester's Comments, Nov. 23, 1998, Exhibit No. 3, Declaration of [DELETED], Nov. 20, 1998, at 2-3.

At the hearing, USAID officials responded that Deloitte's research director exceeded the minimum qualifications, even though he has never held the title of senior research manager. USAID officials testified that, in their view, experience as a senior research manager encompassed any relevant experience in managing research activities or projects that were performed at a senior level, and need not necessarily include the supervision of other personnel. Tr. at 282, 288-89, 369-70. These officials testified that the agency was primarily interested in whether an individual had experience managing research activities, such as the methodologies, studies, surveys, and questionnaires, as opposed to managing individuals. Id. Thus, USAID asserts that it properly evaluated Deloitte's research director because his resume shows that he possessed extensive experience managing relevant research activities, and that he satisfied the other RFP qualifications. Tr. at 274-77, 370-78.

Given the absence of a specific definition of the term senior research manager in the RFP, we conclude that the way in which USAID interpreted the term for purposes of its evaluation is reasonable. In this regard, USAID inserted the term in the RFP without intending to apply a mechanical definition, but with the intention of trying to ensure that it obtained an individual with appropriate technical skills. See Tr. at 282. Under this interpretation, Deloitte's research manager's resume, reflecting significant experience in managing relevant research projects (many of them USAID projects), could reasonably be interpreted as meeting the minimum RFP requirements. Agency Exhibit No. 10, Deloitte Revised Technical Proposal, Resume of [DELETED]; see Tr. at 370-78.

Finally, Futures protests that USAID failed to properly evaluate Deloitte's past performance. Futures contends that the outstanding rating assigned Deloitte's past performance was unjustified in light of a recent USAID report that evaluated the Promoting Financial Investment and Transfers (PROFIT) project, for which Deloitte was the prime contractor. Agency Exhibit No. 18, Population Technical Assistance Project (POPTECH) Report No. 96-070-044, Nov. 1996, Evaluation of PROFIT Project. Futures asserts that the USAID report did not favorably evaluate Deloitte's performance under PROFIT in the areas of cost and personnel. This report contained such comments as "[f]rom a USAID contract management perspective . . . [Deloitte's] costs appear[ed] high for such a low output of subprojects," "developing and implementing opportunities in the commercial sector have not been easy," and "[s]ome PROFIT subprojects thus appear to have experienced problems that might have been anticipated and addressed by an integrated team made up of people with more local culture or country knowledge or more experience in designing and managing development projects." Id. at viii, 64. Thus, Futures argues that USAID could not have reasonably found Deloitte's past performance to be outstanding on the PROFIT project. Futures also questions the propriety of the past performance evaluation because of the minimal contemporaneous documentation.

At the hearing, the chairman and a member of the TEP testified that each member reviewed the past performance of Deloitte and the subcontractors listed in Deloitte's proposal, and that the TEP met to discuss their evaluation of this performance. Tr. at 238-39, 320, 348-50. Several members of the TEP had specific knowledge of Deloitte's and its subcontractor's past performance under the PROFIT project, the SUMMA Foundation, and other contracts, and viewed Deloitte's past performance on these projects as outstanding. Tr. at 349-50. In this regard, the TEP members found, although the PROFIT project was "experimental," which led to some of the reported problems, that "Deloitte's management of [the PROFIT] project was impeccable, [that] the project itself was generally considered to be a success," and that the evaluators familiar with PROFIT were "particularly pleased with the work" of Deloitte's proposed project manager. Agency Exhibit No. 26, Declaration of [DELETED], Dec. 14, 1998, at 3; see Tr. at 351-59. The chairman of the TEP testified that the PROFIT report was not consulted in the past performance evaluation because the document was a technical evaluation of the PROFIT project itself, as opposed to an evaluation of Deloitte's past performance. See Tr. at 415-16.

Given the evaluators' specific knowledge of Deloitte's performance under PROFIT, the fact that the PROFIT report was not consulted does not undermine the evaluation. As we have previously observed, it is not necessarily required that an agency check all past performance references or all information in its possession regarding a contractor. Rather, what is critical is whether the evaluation is conducted fairly, reasonably and in accordance with the stated evaluation criteria, and whether it is based upon relevant information sufficient to make a reasonable determination of the offeror's overall past performance rating, including relevant information close at hand or known by the contracting personnel awarding the contract. See U.S. Tech. Corp., B-278584, Feb. 17, 1998, 98-1 CPD ¶ 78 at 6.

While USAID should have adequately documented its past performance evaluation, USAID has shown that it reasonably evaluated Deloitte's past performance, based on the evaluators' specific knowledge of Deloitte's and its subcontractor's past performance under prior contracts, including PROFIT, and its detailed post-protest explanations of why Deloitte's and its subcontractor's past performance was regarded as outstanding. Although Futures points to the statements in the PROFIT report as being inconsistent with this rating, the agency asserts that Futures has attached more significance to the PROFIT report than was intended, inasmuch as the report never had as its main focus the evaluation of Deloitte's performance, and notes that the report contains many positive statements regarding Deloitte's contract performance. See Tr. at 351-58, 416. In view of the agency's explanation as to why it considers Deloitte's past performance outstanding in the face of the PROFIT report, we are not persuaded that this report is inconsistent with the agency's rating or that consideration of the report would have changed the rating. See Tr. at 351-58 (testimony as to why PROFIT report did not adversely affect Deloitte's past performance rating).

The protest of the cost evaluation is sustained.

We recommend that consistent with this decision the agency perform a proper cost evaluation, including a cost realism analysis, reopen discussions if necessary, and make a new best value determination.[16] We also recommend that Futures be reimbursed the cost of filing and pursuing its protest, including reasonable attorneys' fee. 4 C.F.R. § 21.8(d)(1) (1998). The protester should submit its certified claim for such costs, detailing the time expended and the costs incurred, directly to the contracting agency within 60 days of receiving this decision.

Robert P. Murphy
General Counsel

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[16] Since we recommend that the agency perform a new best value determination, we need not address the protester's objection to the agency's original best value decision.