



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Sample's Shipyard

File: B-280452

Date: October 1, 1998

Chris Braga for the protester.

Richard V. Gonzales, Esq., U. S. Coast Guard, for the agency.

Jeanne W. Isrin, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

In procurement for vessel repairs at contractor's shipyard, agency reasonably based distance calculation used in cost evaluation on longer route than route suggested by protester, where agency determined that shorter route would put vessel at unwarranted risk.

DECISION

Sample's Shipyard protests the award of a contract to Ocean Technical Services, Inc. (Otech) under invitation for bids (IFB) No. DTTCG80-98-B-3FC799, issued by the Department of Transportation, United States Coast Guard (USCG) for the drydock and repair of the USCG cutter Vashon.¹

We deny the protest.

The IFB contemplated award of a fixed-price, indefinite-delivery, indefinite-quantity contract, to be performed at the contractor's shipyard. Award was to be made to the low responsive bid submitted by a responsible bidder. The low bid was to be determined by adding extended prices for all line items to five foreseeable cost factors to be incurred by the USCG as a result of having the work performed at a shipyard other than the homepier; these would vary based on the location of the contractor's shipyard. IFB §§ M.1(b), M.3. The protest concerns one of these factors, the distance factor--\$16.90 per nautical mile--which reflected the USCG's facility costs to navigate the vessel to and from the contractor's shipyard. IFB § M.3.

Three bids were received by the May 1 bid opening. The protester's total bid as submitted--before addition of the distance factor--was low at \$292,368, while Otech's

¹Although the IFB also solicited drydock and repair for an additional vessel, the USCG cutter Ocracoke, only the award with respect to the Vashon is at issue here.

was second low at \$316,954. In determining the amount to be added to the bids under the distance factor, the agency developed a route from the homepier at San Juan, Puerto Rico, to each bidder's shipyard. For the protester's bid, because USCG directives prohibit long ocean transits and require a 70-percent fuel onboard state during the Atlantic Ocean hurricane season (June 1 through November 30), the period during which the Vashon was to be moved, contracting officials calculated a route which would keep the vessel close to land and permit frequent refueling. This route measured 2,442 nautical miles (one way), based on the ship's sailing from San Juan to Guantanamo Bay, Cuba, on to Miami, Florida, and then continuing up the U.S. east coast to Boothbay Harbor, Maine, stopping four more times to refuel. This distance produced a total evaluated bid of \$386,585.92, \$2,499.36 higher than Otech's total evaluated bid, \$384,086.56, and so award was made to Otech on June 17.²

The protester argues that the distance factor calculation for its bid is incorrect, because it is based on a route longer than the "most direct route consistent with the physical capabilities of the vessel," the standard on which the route was to be determined. USCG Legal Memorandum at 3. The protester maintains that the Vashon is physically capable of ocean transits, and therefore can sail directly from Puerto Rico to Fort Macon, North Carolina, refuel and continue up to Boston, refuel again and continue up to Boothbay Harbor. The protester maintains that using this route would permit the vessel to maintain 50-percent fuel capacity at all times, while reducing the distance to approximately 2,075 nautical miles. Basing the distance factor on this mileage would make the protester's evaluated bid low, at \$374,181.32.

We will not question an agency's determination of its needs and the best method of accommodating those needs unless that determination has no reasonable basis. TLC Sys., B-277095, Sept. 2, 1997, 97-2 CPD ¶ 61 at 3.

We find that the record establishes a reasonable basis for the USCG's determination that it would need to use the longer route to the protester's shipyard. As indicated above, the choice of route was dictated largely by consideration of the risk to the vessel and crew. The agency explains that, while 110-foot cutters such as the Vashon are capable of deepwater operations, i.e., those which occur more than 50

²The record indicates that 2,442 nautical miles may actually be a conservative figure because it is based on an assumption that the ship will be sailed through the Cape Cod Canal, as opposed to sailing around Cape Cod a longer route. The protester has maintained that the Vashon could be sailed through the canal, because other USCG cutters do so. However, the record indicates that, although cutters that service the Cape Cod area and are familiar with the canal use this route, cutters such as the Vashon, which are based in other districts, do not regularly use it. In any case, the 2,442-mile figure assumes use of the canal.

miles from land, as a matter of policy they generally are restricted from routine independent operations or unescorted transits which take them more than 200 miles from shore. This is because their lack of redundant emergency systems and limited communications capabilities, combined with a lack of resources that can readily assist in an emergency, raise the inherent risk of such operations to what the agency considers to be an unacceptable level. As examples of its application of this policy, the agency cites a request from a Puerto Rico-based cutter to make an unescorted transit from that island to Bermuda for a port call in route to a maintenance availability in Baltimore, Maryland, which was denied in September 1997, and a request from a New Jersey-based cutter to transit to Bermuda while returning from a patrol in the Caribbean, which was denied in July 1998. The protester notes, and the agency concedes, that 110-foot cutters have made ocean transits. The agency states, however, that such exceptions are made only when dictated by operational needs. For example, the agency explains, although the USCG cutter Adak was deployed from its homeport of Sandy Hook, New Jersey to Puerto Rico in July 1998, the risk was warranted because the vessel was acting in support of a specific operation in the Caribbean. The agency does not consider vessel maintenance an operational need that warrants the same risk. We find no basis for questioning the agency's position. The agency's policy clearly reduces risk to the vessel and crew, and, while exceptions have been made, there is nothing in the record indicating that exceptions have been made for purposes of transporting a vessel for drydock repair.

The Atlantic Ocean hurricane season is viewed by the USGC as increasing the risk to the vessel and crew even further, and is the principal consideration underlying the 70-percent onboard fuel requirement. This amount of fuel is deemed necessary to ensure that the cutter will have the requisite endurance to take adequate evasive action before a storm's arrival, and to perform necessary relief operations immediately after the passage of destructive winds and seas. In addition, 110-foot cutters are unable to ballast, *i.e.*, steady themselves, and the 70-percent onboard fuel load provides weight and stability to ensure safe operations in heavy weather. The protester's notes that the written directive from the Commander, Atlantic Area Coast Guard, requires that a 70-percent fuel load be maintained only by cutters in port during a level 4 (maximum force) hurricane, and does not directly speak to the hurricane season. However, the danger inherent in the hurricane season is obvious, and we think that, notwithstanding the absence of an express command directive, the agency reasonably could weigh such risks against perceived operational benefits.

The agency determined that the protester's proposed route was not viable because the distance from San Juan to Fort Macon is approximately 1,120 nautical miles and, based on a 15-knot speed, the Vashon would arrive in Fort Macon with only approximately 35 percent of fuel remaining. This route would also at times place the Vashon more than 300 nautical miles from the closest point of land. Since this

route would be inconsistent with the fuel load and deepwater restrictions, which we have found to be reasonable, the agency properly declined to use this route in its distance factor calculations.

The protest is denied.

Comptroller General
of the United States