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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

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Decision

Matter of: MPRI, Inc.

File: B-289401

Date: February 20, 2002

Harvey Sherzer, Esq., Scott Arnold, Esq., Joe R. Reeder, Esq., and Neil E. Richman, Esq., Greenberg Traurig, for the protester.

Lee P. Curtis, Esq., and Suzette W. Derrevere, Esq., Perkins Coie, and Terrence Murphy, Esq., Patrick H. O'Donnell, Esq., and Mary Elizabeth Anderson, Esq., Kaufman & Canoles, for Communication Technologies, Inc., an intervenor.

Capt. Ronald D. Sullivan, Maj. Howard W. Roth, Lt. Col. Scott E. Lind, and Col. Michael R. Neds, Department of the Army, for the agency.

Paul E. Jordan, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly failed to consider awardee's lower proposed fringe benefits in determining whether price proposal reflected management plan proposal to hire incumbent employees, is denied where source selection authority was aware of protester's higher fringe benefits and reasonably concluded that difference was not significant because awardee's overall proposed compensation, while lower than protester's, was comparable.

DECISION

MPRI, Inc. protests the award of a contract to Communication Technologies, Inc. (COMTek) under request for proposals (RFP) No. DABT60-01-R-0002, issued by the Department of the Army for Reserve Officer Training Corps (ROTC) functional support. MPRI challenges the evaluation of COMTek's proposal.

The RFP sought proposals to provide nationwide specialized support in the functional areas of ROTC instruction, cadet recruiting, retention and training, administration, ROTC field training, and administrative and logistical services. Services included the provision of staff officers, assistant professors of military science (APMS), and enlisted instructors. Based on the prior history of performance, the agency anticipated a requirement of some 363 personnel at 220 institutions. The RFP contemplated the award of a fixed-price requirements contract for a base year, with 4 option years.

Proposals were to be evaluated on the basis of three factors: management proposal, past performance, and price.¹ Price was to be evaluated and analyzed to determine, among other things, whether pricing reflected the management proposal. RFP § M.4. All non-price factors were considered significantly more important than price; award was to be made to the offeror whose proposal represented the best value to the government. RFP § M.2.

Three offerors, including MPRI and COMTek, submitted proposals; after the initial evaluation by the technical evaluation board (TEB), the third offeror's proposal was eliminated from the competitive range. The agency conducted discussions with both remaining offerors and obtained revised proposals from each. The results of the final evaluation were as follows:

	MPRI	COMTek
<i>Management</i> ²	Exceptional	Exceptional
<i>Past Performance</i> ³	Good	Good
<i>Price</i>	\$193,098,650	\$142,393,042

The source selection authority (SSA) reviewed the findings of the TEB and the price evaluation, and noted that the significant difference in price between the proposals was principally due to MPRI's higher indirect rates and profit. She acknowledged that there were limited advantages in MPRI's proposal, but found that they did not overcome COMTek's substantial price advantage. Accordingly, the SSA determined that COMTek's proposal represented the best value to the government and awarded

¹ The management proposal was evaluated on the basis of seven equally weighted subfactors: contract performance plan; recruitment and retention plan to include retention at high cost areas; corporate experience; demonstrated understanding of the Army Cadet Command; procedures for transitioning; key and non-key personnel; and employee incentive plan. Past performance was evaluated on the basis of five equally weighted subfactors: effort of comparable complexity; cost compliance; technical compliance; schedule compliance; and other areas of customer satisfaction. RFP § M.4.

² MPRI's proposal received exceptional ratings under all management subfactors. COMTek's proposal received exceptional ratings under five subfactors and good under two, recruitment and retention, and corporate experience. The overall ratings for both were exceptional.

³ Both proposals were rated good under all subfactors except comparable complexity, under which MPRI's proposal was rated exceptional and COMTek's marginal. The overall ratings for both were good.

it the contract. After receiving notice of the award and a debriefing, MPRI filed this protest.

MPRI asserts that the agency did not meaningfully consider the total compensation proposed by the offerors. Supplemental Comments at 4. However, the record shows that the agency did conduct a detailed comparison of offerors' prices, consistent with the terms of the RFP. Because this solicitation contemplated award of a fixed-price contract, there was no requirement that the agency conduct a detailed cost analysis, OMV Med., Inc.; Saratoga Med. Ctr., Inc., B-281387 et al., Feb. 3, 1999, 99-1 CPD ¶ 52 at 5; the depth of the price analysis was a matter within the sound exercise of the agency's discretion. Volmar Constr., Inc., B-272188.2, Sept. 18, 1996, 96-2 CPD ¶ 119 at 6. As discussed below, we find that the agency's price analysis was reasonable here.

Specifically, MPRI contends that the price evaluation was flawed because the agency did not address the alleged failure of COMTek's price proposal to reflect its management proposal, as required under the RFP's price evaluation provisions.⁴ MPRI asserts that, while the agency compared the firms' salary packages, it did not consider the fact that COMTek's fringe benefits were lower than MPRI's, and the negative effect that this could have on both COMTek's plan (under its management proposal) to hire approximately 95 percent of the incumbent workforce, and its ability to retain workers through the term of the contract. Protester's Comments at 3; Supplemental Comments at 2-3.

MPRI's argument is without merit. While the SSA did not document her conclusions regarding fringe benefits at the time of the source selection, she has provided information in response to the protest showing that she did in fact consider the difference in fringe benefits, and concluded that the difference was not significant.⁵

⁴ In its initial protest submission, MPRI asserted that the agency improperly evaluated COMTek's non-price proposal as equivalent to the protester's. The agency's report provided a detailed response to this allegation. Because MPRI's comments did not contain any rebuttal to the agency's response, we consider this allegation abandoned. Analex Space Sys. Inc.; PAI Corp., B-259024, B-259024.2, Feb. 21, 1995, 95-1 CPD ¶ 106 at 9.

⁵ Post-protest explanations that provide a detailed rationale for contemporaneous evaluation conclusions simply fill in previously unrecorded details; we will consider such explanations in our review of the rationality of a selection decision where, as here, the explanation is credible and consistent with the contemporaneous record. See NWT, Inc.; PharmChem Labs., Inc., B-280988, B-280988.2, Dec. 17, 1998, 98-2 CPD ¶ 158 at 16; Northwest Management., Inc., B-277503, Oct. 20, 1997, 97-2 CPD ¶ 108 at 4 n.4.

Specifically, she explains that she was aware that each offeror proposed different indirect rates that included the cost of their proposed fringe benefit packages, and that, in her “experience, [she] did not consider this difference in rates [[deleted] versus [deleted] percent] to be a source of major concern.” SSA Supplemental Statement at ¶ 3. According to the SSA, what she considered important was the “obvious conclusion that COMTek’s price for APMS was more than adequate to cover both its annual salary and a fringe benefit package comparable to the present MPRI package [and] fully cover[ed] the total compensation needed for performance.” Id. at ¶ 4. In this connection, while MPRI emphasizes that COMTek’s proposed average salary for its APMSs (330 of the 363 proposed personnel) was lower than MPRI’s ([deleted] versus [deleted]), the agency points out that COMTek’s proposed salary represented an increase over the average salary for APMSs under MPRI’s incumbent contract [deleted], which could mitigate any impact from COMTek’s lower fringe benefits. We find nothing unreasonable in the contracting officer’s position. Although MPRI’s fringe benefits were higher, we think she reasonably determined that the difference in value was sufficiently small that the firms’ total compensation packages were comparable for purposes of considering whether COMTek’s management proposal should be downgraded. While MPRI disagrees with the agency’s judgment as to what constitutes comparability, such disagreement is not a sufficient basis for sustaining a protest. BFI Waste Sys. of Nebraska, Inc., B-278223, Jan. 8, 1998, 98-1 CPD ¶ 8 at 2.

Since the SSA determined that the two firms’ compensation packages were comparable and adequate to perform the contract, she had no reason to downgrade COMTek’s management proposal on the basis that its lower overall compensation package would impede its efforts to hire incumbent employees.

The protest is denied.

Anthony H. Gamboa
General Counsel