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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:** HSG Philipp Holzmann Technischer Service GmbH

**File:** B-289607

**Date:** March 22, 2002

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Reed von Maur, Esq., Reed L. von Maur Law Office, for the protester.  
Lee P. Curtis, Esq., W. Hartmann Young, Esq., and Suzette W. Derrevere, Esq.,  
Perkins Coie LLP, for PAE Technical Service GmbH, an intervenor.  
Maj. Karl W. Kuhn, Department of the Army, for the agency.  
Paula A. Williams, Esq., and Michael R. Golden, Esq., Office of the General Counsel,  
GAO, participated in the preparation of the decision.

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### **DIGEST**

Protest that awardee's prices were unbalanced is denied where the prices are neither significantly understated nor overstated.

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### **DECISION**

HSG Philipp Holzmann Technischer Service GmbH (Holzmann) protests the award of a contract to PAE Technical Service GmbH under request for proposals (RFP) No. DAJA22-01-R-0022, issued by the United States Army, for laundry and dry cleaning services. Holzmann, the incumbent contractor, contends that PAE's proposal should have been rejected on the basis that PAE's prices were unbalanced.

We deny the protest.

The RFP was issued on July 18, 2001, and as amended, contemplated the award of a fixed-price contract for a base year with four 1-year options to manage and operate the government-owned laundry and dry-cleaning plant in Wurzburg, Germany. RFP at 76, 91. The RFP required offerors to complete a price schedule with separate entries made for the base year requirements and for each of the four option year requirements, listed as contract line items (CLIN).<sup>1</sup>

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<sup>1</sup> The solicitation instructed offerors to submit their prices in euros and advised that all payments under the resultant contract will be made in euros. Consequently, all references to price in this decision are in euros. RFP § A, Cover Sheet.

The base contract year has four CLINs. CLIN 0001 includes all of the effort required to operate and manage the Wurzburg plant, as well as the actual cleaning of the laundry and dry-cleaning items. The estimated annual quantity of the items to be laundered and dry-cleaned are set forth in technical exhibit (TE) 3. RFP § C, at 31. Under CLIN 0002, the contractor is to provide on-site personnel to collect, transport, and return laundry items from various troop collection point (TCP) locations in accordance with the performance work statement (PWS). The TCP locations are identified in TE-1. Id. at 26-28. CLIN 0003 requirements include the pickup, transportation, and return of laundry items from Army lodgings; no on-site personnel were required at these locations. CLIN 0004 calls for the contractor to provide repair parts for the government-owned equipment in accordance with the PWS with a “not to exceed estimated cost” of 40,000 euros.<sup>2</sup> RFP at 3-12.

The four base year CLINs, 0001-0004, carry over into each of the option years with some additions. RFP at 12-58. Specifically, in the first option year, CLIN 1005 was added for an optional increase of 482,000 pieces in the estimated annual quantity of items to be picked up and returned from the existing TCP and from the Army lodgings. Id. at 22. CLIN 1005 is separately exercisable and carries over into the three remaining option years. RFP at 33, 45, 57. In the second option year, CLIN 2006 is also added as an optional increase of 3,000,000 pieces of laundry to be picked up, processed, and returned to three Air Force lodgings. This CLIN also is separately exercisable and carries over into the remaining two option years. Id. at 34, 46, 58.

The RFP states that award will be made to the responsible offeror whose offer conforms to the solicitation, is determined technically acceptable based on the listed evaluation factors, and offers the lowest evaluated price, based on the total price for the base year and all option years.<sup>3</sup> RFP at 93, 94. Section M of the RFP states that technical/management proposals would be evaluated for technical acceptability only and the solicitation identifies the following non-price evaluation factors to determine acceptability: (1) operational organization and work flow, (2) proposed staffing, (3) quality control plan, and (4) experience/past performance. Prices proposed were to be evaluated to determine that they were fair and reasonable. Id. at 93-94.

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<sup>2</sup> Except for CLIN 0004 (and corresponding sub-CLINs), which required offerors to propose a percentage material and handling fee, offerors were to submit fixed prices for each CLIN and sub-CLIN. See, e.g., sub-CLINs 0003AA, 1003AA, 3003AA and 4003AA. RFP amend. No. 5, at 2.

<sup>3</sup> Cost and pricing data were not required but offerors were to submit a signed Standard Form 33, a completed Section B price schedule, and signed Section K certifications and description of the firm’s cost accounting system for the reimbursable portion of the PWS.

Holzmann and PAE were the only offerors to submit proposals.<sup>4</sup> While both proposals were evaluated as technically acceptable, the evaluation materials identified a concern regarding the Holzmann proposal. Specifically, under the staffing evaluation factor, an evaluator noted a “concern in needing [DELETED] if hotels [Army lodgings] and Air Force runs are added. Currently [DELETED] are sufficient.” Agency Report (AR) exh. 13, Technical Evaluation Committee Report. The evaluators nonetheless concluded that each proposal demonstrated the offeror’s total understanding of the solicitation requirements and ability to perform the contract. The offerors’ price proposals were also evaluated to determine reasonableness by comparing the proposed prices to each other. AR exh. 6, Pre-Award Memorandum, at 3-4. On November 20, 2001, discussion letters were sent to both offerors raising a number of price concerns and both offerors were given an opportunity to submit final proposal revisions.

The relevant text of PAE’s discussion letter provided as follows:

1. In your proposal, Section B, the following Sub CLINs are missing:  
  
2003AG, 2003AH, 2003AJ, 3003AG, 3003AH, 3003AJ, 4003AG, 4003AH and 4003AJ.
2. As indicated in Section C, Performance Work Statement, Paragraph C-1.1, pick up/delivery of hotel items shall be provided as required (maximum 3 times per week). Please verify and explain if your prices specifically for CLINs 0003, 1003, 2003, 3003 and 4003 . . . have taken this requirement into consideration.
3. Request that total amount for each contract period, as well as the grand total be provided.

AR exh. 12, Contracting Officer’s Letter to PAE, Nov. 20, 2001.

Holzmann’s discussion letter advised the firm, in relevant part, that:

1. As indicated in Section C, Performance Work Statement, Paragraph C-1.1, pick up/delivery of hotel items shall be provided as required (maximum 3 times per week). Please verify if your prices specifically for CLINs 0003, 1003, 2003, 3003 and 4003 . . . have taken this requirement into consideration.

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<sup>4</sup> The record shows that PAE has performed laundry and dry-cleaning services at the Wurzburg plant under a previous contract, and both PAE and Holzmann have provided laundry services under contracts for the Air Force in Germany.

2. Request that total amount for each contract period, as well as the grand total be provided.

AR exh. 12, Contracting Officer's Letter to Holzmann, Nov. 20, 2001.

Shortly thereafter, the contracting officer issued amendment No. 0005 primarily to change some required Army lodging pickup and delivery to optional sub-CLINs. In addition, amendment No. 5 adjusted the monthly workload for the TCP locations listed in TE-1. RFP amend. No. 5. On November 26, amendment No. 6 was issued to correct an error in amendment No. 5 which failed to include a list of hotels, which was part of TE-1. RFP amend. No. 6.

Final proposal revisions were received and evaluated and the revised prices submitted by both offerors were determined to be fair and reasonable. The final prices were calculated as follows:<sup>5</sup>

	<b>Holzmann</b>	<b>PAE</b>
Base Year	[DELETED]	2,050,752.00
1 <sup>st</sup> Option Year	[DELETED]	2,145,504.00
2 <sup>nd</sup> Option Year	[DELETED]	2,850,048.00
3 <sup>rd</sup> Option Year	[DELETED]	2,921,628.00
4 <sup>th</sup> Option Year	[DELETED]	2,993,664.00
<b>TOTAL PRICE</b>	[DELETED]	12,961,596.00

AR exh. 7, Abstract of Final Offers.

The contracting officer reports that an independent government estimate was not available. In reviewing the prices, she inferred that PAE's higher price for the base year included initial start up costs, which Holzmann as the incumbent contractor would not have. Further, she concluded that:

1. Even though firm PAE's offered price for the basic year is [DELETED] than [Holzmann's], the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> options are [DELETED] than [Holzmann's] by [DELETED] respectively. The grand total price of firm PAE is [DELETED] than that of [Holzmann].

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<sup>5</sup> The prices include the government estimate of 40,000 plus [DELETED] proposed by Holzmann and [DELETED] proposed by PAE, respectively, for reimbursement CLINs 0004, 1004, 2004, 3004, and 4004. AR exh. 6, Pre-Award Memorandum, at 4.

2. The offer of firm PAE is materially balanced and the price increase by 2.5% for the successive periods reflects the anticipated change in German tariff. The price increase by 5.6% from 1<sup>st</sup> option to 2<sup>nd</sup> option reflects the increase in optional workload. Therefore, the offer is considered fair and reasonable and hence acceptable.

AR exh. 6, Pre-Award Summary, at 4. The agency awarded the contract to PAE on December 19. After requesting and receiving a debriefing, Holzmann filed this protest, challenging the agency's evaluation of PAE's price proposal on several grounds.

Holzmann maintains that PAE's offer was unbalanced and could not be accepted for award because its prices for CLIN 0003 were significantly understated. Specifically, Holzmann alleges that PAE's line item prices for CLIN 0003 particularly in the option years following the addition of the Air Force estimated annual quantity of 3,000,000 items do not reflect the pickup and delivery services required by this three-fold increase in the annual estimated requirement of 1,050,000 items for the base year. As such, the protester states, the cost of transporting, *i.e.*, pickup and delivery, of this three-fold volume increase was not reflected in PAE's proposed pricing. Protest at 10-11; Protester's Comments at 10-14. Holzmann also contends that the agency failed to perform a proper price reasonableness analysis in evaluating PAE's proposal, based on PAE's prices not being in line with Holzmann's prices.

Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated. Federal Acquisition Regulation (FAR) § 15.404-1(g)(1). While unbalanced pricing may increase risk to the government, agencies are not required to reject an offer solely because it is unbalanced. *Id.* Rather, where the contracting officer receives an unbalanced offer, the contracting officer is required to consider the risks to the government associated with the unbalanced pricing in making the award decision, and whether a contract will result in unreasonably high prices for contract performance. FAR § 15.404-1(g)(2). Reflecting these regulatory provisions, the solicitation here specifically provided that a proposal could be rejected if the agency determined that, due to unbalanced pricing, the proposal posed an unacceptable risk. RFP at 90.

The agency explains that in its view PAE's prices were not unbalanced. The agency states that the difference in Holzmann's and PAE's pricing can be explained by their differing pricing strategy. According to the agency, the RFP did not specify which costs were to be included in CLIN 0003 as opposed to CLIN 0001 (for the operation of the Wurzburg plant and actual laundering of the basic annual requirement), CLIN 1005 for laundering the optional Army lodging requirements, or CLIN 2006 for laundering the optional Air Force requirements. In addition, since many of the Army lodgings were located in the same city as the TCP locations, the agency considered

PAE's proposal--to modify its existing pickup and delivery routes to accommodate the Army lodgings and Air Force requirements--reasonable. Further, the Army reports that during contract review by Army headquarters, an analysis of PAE's proposed prices for all 5 years was prepared. This analysis shows no pricing discrepancy in PAE's offer and that the 33 percent difference in pricing between the first and second option years is attributable to the addition of the CLIN 2006 optional Air Force requirements. The analysis further shows that the annual escalation for the third and fourth option years is approximately 2.5 percent, which the agency concluded was fair and reasonable. AR exh. 1, Contracting Officer's Statement, at 6; AR exh. 6, Pre-award Summary, at 6.

The potential risk associated with unbalanced pricing arises from line items with overstated prices, not from underpriced ones. While Holzmann disagrees, the record here supports the reasonableness of the agency's analysis and of its conclusion that PAE's proposal was not unbalanced. There is simply no evidence that any of PAE's prices were so overstated as to create any concern of risk to the government. While PAE's overall price for the base year is [DELETED] than Holzmann's proposed prices, this small difference cannot reasonably be viewed as creating a risk to the government. The differences in the prices between the two offerors are not sufficiently significant to warrant the conclusion that any of PAE's prices are significantly understated or overstated. Thus, there is no basis to conclude that PAE's pricing is unbalanced.<sup>6</sup> See MG Indus., B-283010.3, Jan. 24, 2000, 2000 CPD ¶ 17 at 7-8.

Next, we find without merit the protester's assertion that the agency failed to perform an adequate price reasonableness analysis of PAE's proposal. The protester's primary disagreement with the agency's conclusion is based on its erroneous belief that an in-depth price analysis of the awardee's price proposal should have been performed, rather than simply comparing the prices received with each other. The depth of an agency's price analysis is a matter within the sound exercise of an agency's discretion. See FAR § 15.404-1(b); OMV Med., Inc.; Saratoga Med. Ctr., Inc., B-281387 et al., Feb. 3, 1999, 99-1 CPD ¶ 52 at 5-6. The record reflects that the contracting officer reviewed the proposed prices received on a CLIN by CLIN basis and on a total price basis, and concluded that the prices proposed were reasonable. As the contracting officer concluded, there is little difference between the two offerors' proposed pricing. There simply is no merit to Holzmann's allegation that the agency failed to properly evaluate PAE's price proposal and we have no basis to question the analysis performed here.

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<sup>6</sup> In any event, the record also reflects that the variations in pricing between the two offerors are related to the different approaches proposed for performing the requirements.

Moreover, to the extent Holzmann alleges that the agency's evaluation of PAE's proposal under the proposed staffing evaluation factor was flawed because the agency did not consider that PAE would be unable to perform at the prices offered for certain CLINs, the allegation is without merit. Under this factor, the agency was required to evaluate offerors' staffing to determine whether the number and qualifications of the proposed personnel would be adequate to successfully perform the solicitation requirements. RFP at 94. The agency performed this evaluation. The solicitation did not indicate that proposed prices would be used to evaluate offers for understanding of requirements under this (or any other) technical factor. Accordingly, the agency properly did not consider price in evaluating PAE's proposal under the proposed staffing factor. Possehn Consulting, B-278579, Jan. 9, 1998, 98-1 CPD ¶ 10 at 3-4.

Finally, the protester also contends that the agency conducted flawed discussions by not advising the firm that its prices were too high. While FAR § 15.306(e)(3) gives the contracting officer the discretion to inform an offeror that its price is too high, it does not require that the contracting officer do so, especially where, as here, the proposed price reflected an acceptable technical approach and the agency did not consider the pricing a significant weakness or deficiency. See AJT & Assocs., Inc., B-284305, B-284305.2, Mar. 27, 2000, 2000 CPD ¶ 60 at 8-9; National Projects, Inc., B-283887, Jan. 19, 2000, 2000 CPD ¶ 16 at 5. Moreover, the small difference between the prices of the two proposals again supports the agency's decision not to have concern that Holzmann's prices were too high or to raise that subject during discussions.

In sum, the record provides no basis to object to the agency's determination to award to PAE on the basis that PAE proposed the lowest total evaluated price.

The protest is denied.

Anthony H. Gamboa  
General Counsel