



**Comptroller General  
of the United States**

Washington, D.C. 20548

# Decision

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**Matter of:** Vitro Corporation

**File:** B-261662.2

**Date:** December 4, 1995

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Jacob B. Pompan, Esq. and John J. O'Brian, Esq., Pompan, Ruffner & Werfel, for QuesTech, Inc., intervenor.

Capt. Arthur E. Lees, and Vera Meza, Esq., Department of the Army, for the agency.

Glenn G. Wolcott, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## **DIGEST**

1. Agency reasonably concluded that protester's proposed potential [deleted] discount would not accrue to the benefit of the government where the discount took effect only for labor hours beyond specified levels and the agency reasonably determined that the threshold requirements would not be achieved.
2. Agency's adjustment of protester's proposed labor rates to reflect risk was permitted by the terms of the solicitation.
3. Agency reasonably considered protester's performance of predecessor contract in evaluating protester's proposed rates and agency's across-the-board adjustment of protester's proposed labor rates does not provide a basis to sustain the protest where record, as a whole, demonstrates that adjustment did not have a significant impact on source selection decision.
4. Agency conducted meaningful discussions regarding protester's labor rates where it advised protester that rates were unacceptably low, and protester's response demonstrated clear understanding of the minimum expected rates.

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## **DECISION**

Vitro Corporation protests the Department of the Army's award of a contract to QuesTech, Inc. under request for proposals (RFP) No. DAAB10-93-R-1017, to provide support for the Army's Intelligence and Electronic Warfare (IEW) activities.

Vitro contends that the agency improperly evaluated its cost and technical proposals and failed to engage in meaningful discussions.

We deny the protest.

## BACKGROUND

On May 2, 1994, the Army issued the RFP seeking proposals to provide operational, program management, technical, engineering, integration, prototype development and fabrication services to support the Army's Intelligence and Electronic Warfare Directorate (IEWD) and its customers.<sup>1</sup> The requirements being competed under this solicitation are a consolidation of activities currently being performed by QuesTech and Vitro, individually, under separate contracts. The Army describes the new contract as one which will require a broad range of technical disciplines and which is intended to push the state-of-the-art in intelligence and electronic warfare, specifically ensuring the ability to jam enemy communications while avoiding detection.

Consistent with the Army's description of the contract, the RFP emphasized technical and performance factors over cost factors. Specifically, the RFP stated that award would be based on three evaluation factors--technical, performance risk, and cost--and that technical factors would be significantly more important than performance risk, which would be significantly more important than cost.

The solicitation contemplated award of an indefinite delivery/indefinite quantity (ID/IQ) contract for a base period with four 1-year option periods; upon award of a contract, delivery orders will be issued and contract payments will be made on a time-and-materials basis. The RFP listed 83 labor categories for which offerors were required to propose rates. For each labor category, the RFP provided the agency's estimate of the number of hours likely to be required during each contract year. In the aggregate, the agency estimated it would require approximately 434,000 labor hours per year. For each labor category listed, the RFP also specified the civil service or "GS" grade level which the agency considered to represent the appropriate equivalent level of experience and expertise sought.

On October 24, following several RFP amendments, proposals were submitted by four offerors, including Vitro and QuesTech. Technical proposals were evaluated by a technical evaluation committee (TEC); cost proposals were evaluated by a cost evaluation committee (CEC); and offerors' performance risks were evaluated by a

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<sup>1</sup>The IEWD performs work for the Marine Corps, the National Security Agency, the Federal Bureau of Investigation, Customs Service, the Department of State, and others.

performance risk analysis group (PRAG). All four proposals were included in the competitive range, and discussions were subsequently conducted with each offeror. Best and final offers (BAFO) were submitted on March 13, 1995. Proposals were again evaluated and final reports from the TEC, CEC, and PRAG were sent to the source selection evaluation board (SSEB), which reviewed those reports and sent them, along with its own report, to the source selection advisory council (SSAC). The SSAC reviewed the evaluation documentation and subsequently met with the source selection authority (SSA). The final ratings for QuesTech's and Vitro's proposals were as follows:

Offeror	Technical Rating <sup>2</sup>	Performance Risk	Proposed Cost (in millions)	Evaluated Cost (in millions)
QuesTech	Blue	Low	\$228.6	\$228.9
Vitro	[deleted]	[deleted]	[deleted]	[deleted]

The [deleted] difference between Vitro's proposed cost and its evaluated cost reflected the agency's determination that Vitro's proposal included an illusory [deleted] discount, plus an upward adjustment of [deleted] for certain proposed labor rates which the agency believed were unrealistically low.

On April 19, the SSA selected QuesTech for award and subsequently prepared a source selection document (SSD) which, among other things, stated:

"I have examined all the advantages and disadvantages found in the evaluation of those offerors/proposals which conformed to the solicitation. I have weighed all those advantages and disadvantages in making this decision and have selected [QuesTech] as the successful offeror. I understand that my decision to award this contract to [QuesTech] results in the payment of a premium of approximately [deleted]."

A contract was awarded to QuesTech on May 31. Vitro was debriefed on June 6, and filed its initial protest on June 8. Following receipt of the agency's response to its initial protest, Vitro filed a supplemental protest on July 25.

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<sup>2</sup>Technical proposals were evaluated under a color-coded rating scheme, in which blue was outstanding, green was acceptable, yellow was marginal, and red was unacceptable.

## DISCUSSION

Vitro's [deleted] Million Discount

### A. Background

In its BAFO, Vitro introduced a discount that was triggered by specified levels of labor hours being both ordered and delivered within the base period and first option period, respectively. Specifically, Vitro's BAFO stated:

"Vitro Corporation is proposing a [deleted] discount for all labor in excess of [deleted] hours ordered and delivered during the base year 12 month ordering period. Additionally, we are offering a [deleted] discount for all labor in excess of [deleted] hours ordered and delivered during the 1st option year ordering period."<sup>3</sup>

Vitro states that the proposed discount was intended to provide an incentive to the agency to maximize the quantity of hours placed on the contract and to place orders early in each contract period.

Upon reviewing the discount provisions in Vitro's BAFO, various agency officials expressed concern regarding whether the proposed discount would provide any benefit to the agency in light of the requirement that labor hours be both ordered and delivered in the same contract period. There were various bases for this concern. First, funding for this contract will come from a variety of sources and will become available for obligation at different times throughout the contract periods;<sup>4</sup> in this regard, overall funding for the estimated level of effort was never entirely certain. Further, the agency states that, after reviewing the discount provisions in Vitro's BAFO, it examined existing data regarding Vitro's and QuesTech's performance of the predecessor contracts. The agency concluded that, for quick reaction prototyping, only about 35 percent of the hours ordered in a given period were actually delivered within that same period.<sup>5</sup> Thus, applying its

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<sup>3</sup>Vitro's proposal quantified the value of the discount at [deleted].

<sup>4</sup>Efforts under this contract are funded by several customer agencies as well as through the Army's appropriated funds.

<sup>5</sup>The percentage of hours delivered within the ordering period for activities other than quick reaction prototyping were lower. For example, for prototyping activities generally, approximately 22 percent of hours ordered were delivered in the same period; for service activities, approximately 15 percent of the hours ordered were delivered in the same period.

most optimistic experience to the 434,000 hours per year estimated in the RFP, the agency concluded that only 152,000 hours (35 percent of 434,000) were likely to be both ordered and delivered within a given 12 month period. Accordingly, the agency concluded that the threshold requirements triggering Vitro's [deleted] discount--[deleted] hours ordered and delivered in the base year and [deleted] hours ordered and delivered in the option year--were unlikely to be realized.

Following the agency's decision not to credit Vitro's proposal with the [deleted] discount, the CEC Chairman drafted a memorandum summarizing this issue, which stated:

"3. Using actual data and extrapolating through the next 5 years it became clear that there was very little chance of the government expending over [deleted] hours in the first year and [deleted] hours in the second year. The current reductions in funding further reduced the probability of reaching those thresholds.

"4. It appears clear that [Vitro] also had the same historic data and did the same analysis, coming up with a very low risk method of lowering [its] proposal costs with little or no chance of having to provide the Government any discount. If all offerors had access to the historic data or had the Government more accurately predicted the anticipated hours, this discount would not be an issue. The Government felt that using the average yearly hours would be fair and reasonable for evaluation purposes. It appears that [Vitro] has found a way to offer the Government a meaningless, no substance discount that only gives the appearance of savings to the Government, when, in fact, the Government will not see a cent."

#### B. Vitro's Protest

Vitro protests the agency's refusal to credit its [deleted] discount, asserting that the action was based on a "secret" revision by the agency of its estimates regarding the amounts of labor that would be required in the base year and first option year.

Partially in response to Vitro's allegations that the agency's projected requirements changed during the evaluation process, our Office conducted a hearing during which testimony was provided by various agency officials. At the hearing, the SSA testified that he believed the contract requirements stated in the solicitation were accurate. Hearing Transcript (Tr.) at 37-38. The SSA further testified that he was responsible for the final decision not to include the [deleted] discount as part of Vitro's evaluated cost and that this decision was based on his belief, after considering input from his subordinates, that Vitro's requirement that labor hours be ordered and delivered in the same period precluded the discount from having any

value. Tr. at 33-36, 82-85. The SSAC Chairman and the SSEB Chairman similarly testified that they had no reason to question the accuracy of the RFP's stated requirements and that the [deleted] discount in Vitro's proposal would not have any value to the government on the basis of the "ordered and delivered" requirement. Tr. at 129, 130, 243.

In selecting an offeror for award of a cost-type contract, a cost realism analysis must be performed by the agency to determine the extent to which an offeror's proposed costs represent what the contract is likely to cost the government. CACI, Inc.--Fed., 64 Comp. Gen. 71 (1984), 84-2 CPD ¶ 542; Radian, Inc., B-256313.2; B-256313.4, June 27, 1994, 94-2 CPD ¶ 104. In reviewing an agency's judgment in this area, our Office is concerned with determining whether the cost evaluation had a reasonable basis. General Research Corp., 70 Comp. Gen. 279 (1991), 91-1 CPD ¶ 183, aff'd, American Management Sys., Inc.; Department of the Army--Recon., 70 Comp. Gen. 510 (1991), 91-1 CPD ¶ 492.

We find that the agency reasonably determined that Vitro's proposed [deleted] discount would not actually lower the cost to the government and thus should not be taken into account in the cost evaluation. Vitro does not dispute the agency's understanding that, in order for Vitro's offered discount to take effect, the labor hours would have to be both ordered and delivered (that is, performed) within the same period. Vitro has not presented any persuasive evidence challenging the agency's conclusion that the contract performance history indicates that the thresholds established in Vitro's BAFO were not likely to be realized.<sup>6</sup> In light of the manner in which this contract is funded, the past contract performance data, and the fact that Vitro, itself, would have a significant amount of control in determining when discount thresholds were attained,<sup>7</sup> the agency reasonably

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<sup>6</sup>Although Vitro has criticized various aspects of the agency's analysis, it has not presented evidence, based on its own performance of the predecessor contract, that the agency's conclusions were fundamentally flawed. Clearly, if Vitro's own performance of its predecessor contract contradicted the agency's conclusions in this regard, Vitro could have made that data available during the protest.

<sup>7</sup>Performance of delivery orders under an ID/IQ contract may span more than one contract period, and a contractor, of necessity, has some latitude in determining when hours that are ordered will actually be performed. Thus, in performing the contract, Vitro would know that labor hours delivered prior to the end of a contract period would trigger the discount and, thus, be billed at a considerably lower rate than those same labor hours if delivered immediately after the end of the contract period. Thus, during the first two contract periods, there would be a significant disincentive for Vitro to perform work that could be reasonably postponed.

concluded there was little likelihood that the proposed discount would actually accrue to the benefit of the government.

We find no merit in Vitro's assertion that the agency's decision to disallow its [deleted] discount was based on a revision to its stated requirements. The record shows that the agency's estimates of its requirements were based on the agency's consideration of the levels of effort required under the predecessor contracts, as well as its estimate of anticipated requirements that had not been performed under the predecessor contracts. Although the record shows that, due to the manner in which this contract is funded, there was some uncertainty regarding whether the estimated levels of effort would actually be realized, the SSA, SSAC Chairman, and SSEB Chairman all concluded that the levels of effort contained in the RFP represented the agency's best estimates of its requirements. Tr. at 37-38, 129, 130, 243. We will not sustain a challenge to an agency's estimated requirements unless those estimates are not based on the best information available or are otherwise defective. Dynalectron Corp., 65 Comp. Gen. 92 (1985), 85-2 CPD ¶ 634; American Contract Servs., Inc., B-225182, Feb. 24, 1987, 87-1 CPD ¶ 203. Based on the entire record here, Vitro has not shown that the agency's estimates were based on anything other than the best information available or that they were otherwise defective.

#### Vitro's Labor Rates

##### A. Background Pertaining to the [deleted] Adjustment

In evaluating proposals, the agency established an independent government cost estimate (IGCE) applicable to the direct labor rates for each labor category; this IGCE consisted of the "Step 1" salary of the appropriate equivalent "GS" grade level.<sup>8</sup> The agency considered the "Step 1" rates to reflect the lowest level of direct compensation necessary to attract and retain a work force with the required experience and qualifications. Where an offeror's direct labor rates were below the government's IGCE, those proposed rates were adjusted up to the IGCE for purposes of the cost evaluation.

The agency explains that its adjustment of offerors' rates reflected the agency's quantification of the risk associated with rates below the IGCE. Specifically, the agency explains that, because the solicitation contemplated negotiation of delivery orders following contract award, there was a risk to the government that lower compensated personnel would take longer to perform the required tasks or, alternatively, that the agency would be required to negotiate delivery orders using higher level personnel. Based on these considerations, the agency determined that

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<sup>8</sup>Each "GS" grade level contains 10 levels of compensation, referred to as "Steps."

several of Vitro's labor category prices were unrealistically low, and adjusted them upward in an aggregate amount of [deleted].

## B. Vitro's Protest

Vitro argues that the solicitation did not permit this type of adjustment to its proposed labor rates. Specifically, Vitro asserts "[t]he only potential adjustment to labor rates which was mentioned in the solicitation was [in RFP section M.5.B which provided] that 'the Government will adjust the proposed labor rates to reflect a 40 hour work week, 1920 hour work year, if necessary.'"

Although Vitro accurately recites the RFP provision advising offerors that proposing uncompensated overtime would result in labor rate adjustments, Vitro's assertion that this is the "only" adjustment permitted by the RFP fails to recognize the specific provisions of RFP section M.5.C. That section (which was part of RFP section M.5, titled "Evaluation Approach--The Cost Evaluation Factor") states

"The government will also examine the realism of the offeror's proposed rates in terms of the requirements described in the solicitation. Rates must be realistic for securing and retaining the calibre of highly trained professionals required to perform the government's requirements. The proposed rates will be examined to determine their being unrealistically high or low, which may affect an offeror's overall rating."

A procuring agency is not compelled to accept as realistic labor rates offered for contracts where, as here, services are to be ordered and the labor mix set after award. Stanley Assocs., Inc., B-232361, Dec. 22, 1988, 88-2 CPD ¶ 617. Under an ID/IQ contract such as this, an agency must rely heavily on the contractor's assessment regarding the number of hours and type of labor that will be required to perform the delivery orders. In such circumstances, an agency may reasonably determine that the proposed pricing structure will result in actual costs to the government greater than those stated in the proposal. Id.

Here, the need for quick responses to highly technical requirements exacerbates the risk associated with potential disagreement over levels of effort and qualifications of personnel required for successful contract performance. The agency's consideration of that risk was proper in determining the probable cost of a given offeror's proposal. Accordingly, the agency's upward adjustment of Vitro's labor rates was permissible under this solicitation.

Vitro next argues that the agency "mechanically" adjusted its labor rates up to the IGCE and failed to consider Vitro's proposed rates in the context of Vitro's past experience. Specifically, Vitro asserts: "the Army completely ignored the fact that

Vitro, as the incumbent contractor, has successfully employed personnel at these same proposed labor rates while meeting and exceeding all Government requirements under the contract."

The agency acknowledges that it did not individually assess the realism of each Vitro labor rate in light of the personnel it proposed. At the hearing the CEC Chairman testified as follows:

"Q . . . [Was there] any instance where you made a subjective judgment that [Vitro] offered something below the Step 1 rate for [a] particular person . . . and you looked at it and concluded that, for whatever reason, this [rate] was uniquely acceptable? . . .

"A. No.

"Q . . . . There isn't a single example where you subjectively looked at [the proposed rates]?"

"A. No, I was not going to do that.

"Q . . . . [I]t would have required subjective judgment?"

"A. Then I would be saying, gee, yeah, he probably could [perform at that rate]. Maybe. We didn't do that." Tr. at 429-432.

The agency also states that it did not specifically compare Vitro's proposed rates to the rates being charged under the predecessor contracts. Nonetheless, the agency asserts that it did, generally, consider Vitro's performance of the predecessor contract in its evaluation of Vitro's proposal. Specifically, the agency states that Vitro was awarded the predecessor contract primarily on the basis of its low proposed rates, and that those low rates led to problems in staffing and performance immediately after contract award. Contrary to Vitro's representations that it met or exceeded all government requirements under the predecessor contract, the agency submitted as part of the record here [deleted]. In short, the agency maintains that it did, in fact, give appropriate consideration to Vitro's performance under the predecessor contract.

More significantly, in responding to Vitro's protest, the agency identified a specific portion of Vitro's cost proposal, omitted in the cost evaluation, which properly

requires a [deleted] increase to Vitro's evaluated cost.<sup>9</sup> The agency's explanation of this issue, as well as its supporting worksheets, were provided to Vitro as part of the agency's response to Vitro's supplemental protest. In its subsequent protest submissions, Vitro did not dispute the agency's assertions in this regard.

As noted above, agencies must perform cost realism analyses in selecting awardees for contracts where the cost to the government is not fixed. CACI, Inc.-Fed., *supra*; Radian, Inc., *supra*. Our review in this area is primarily concerned with determining whether the cost evaluation was reasonable. General Research Corp., *supra*; Department of the Army-Recon., *supra*. While a reasonably derived agency estimate of direct, unburdened labor rates for comparable labor categories can provide an objective standard against which proposed rates may be compared, an agency may not mechanically apply that estimate to determine evaluated costs. United Int'l Eng'g, Inc. et al., 71 Comp. Gen. 177 (1992), 92-1 CPD ¶ 122. In order to undertake a proper cost realism evaluation, the agency must independently analyze the realism of an offeror's proposed costs based upon its particular approach, personnel and other circumstances. Allied Cleaning Servs., Inc., 69 Comp. Gen. 248 (1990), 90-1 CPD ¶ 275.

Here, we do not resolve the question of whether the agency gave adequate consideration to Vitro's proposed labor rates because, based on the entire record, we find no potential prejudice to Vitro regarding this issue. Prejudice is an essential element of every viable protest, Lithos Restoration, Ltd., 71 Comp. Gen. 367 (1992), 92-1 CPD ¶ 379. We will not sustain a protest where the record, read as a whole, demonstrates that the protester was not prejudiced. Dynamic Isolation Sys., Inc., B-247047, Apr. 28, 1992, 92-1 CPD ¶ 399; OAO Corp., B-228599.2, July 13, 1988, 88-2 CPD ¶ 42.

If we were to assume that each and every one of Vitro's proposed labor rates should have been accepted without adjustment, Vitro's total evaluated cost would

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<sup>9</sup>Section L.39.9 required that offerors identify all indirect costs. RFP section B included contract line item numbers (CLINs) 0004, 0012, 0020, 0028 and 0036, labeled "Other Indirect Charges," applicable to each of the five contract periods respectively. Prior to submitting its BAFO, Vitro did not include any amount in the "Other Indirect Charge" CLINs. In one of the written discussion questions sent to Vitro prior to BAFO submission, the agency noted that Vitro's proposal appeared to contemplate certain costs which should have been included in the "Other Indirect Charge" CLINs. In its BAFO, Vitro for the first time included "Other Indirect Charge" entries for each contract period in the appropriate CLINs. The total of these entries increased Vitro's proposed cost by approximately [deleted]. Nonetheless, in its final evaluation of Vitro's cost proposal, the agency neglected to include any amount for the "Other Indirect Charge" CLINs.

have been a total of [deleted] lower. However, as discussed above, Vitro has not challenged (and the record supports) the agency's assertion that its evaluation of Vitro's cost proposal improperly omitted [deleted] (unrelated to the labor rate adjustments), which virtually offsets the [deleted] adjustment. In the context of this solicitation, which provided that cost was "significantly" less important than performance risk, which was "significantly" less important than technical factors, the adjustment urged by Vitro, after the offset, clearly would not have altered the source selection decision. We thus have no basis to sustain the protest on this ground.

Vitro maintains that the agency failed to engage in meaningful discussions regarding its evaluation of Vitro's proposed personnel and labor rates. Specifically, Vitro asserts that the agency created a "secret IGCE" reflecting the Step 1 salaries, and that Vitro had no reason to know that its proposal to pay direct labor rates below that IGCE would be considered unacceptable. The record is to the contrary. On January 30, 1995, the agency sent written discussion questions to Vitro regarding its cost proposal. Among other things, this document stated

"Several labor categories which are unacceptably low have been proposed. The direct labor rates (not the totally loaded labor rates) were compared to the minimum GS level the government feels are reasonable. [Deleted.] The following is a list of excessively low labor categories and their levels. [The discussion question then listed [deleted] labor categories.]

"The government needs explanations as to how the offeror plans to provide personnel with the required quality and skill levels at the excessively low proposed labor rates."

Vitro responded to this discussion question with the following statement:

"When taken in the context of Vitro's entire proposed salary structure, each category of concern to the government [deleted].<sup>10</sup>

. . . . .

"In several cases where we [deleted] deviate from the Government's minimum expected salary, Vitro has recognized the deviation and accepted it as a business risk." (Emphasis added.)

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<sup>10</sup>The attached graphs plotted the [deleted] each of the labor categories, labeling each graph [deleted].

In negotiated procurements, contracting agencies are required to conduct meaningful discussions with offerors whose proposals are in the competitive range. Federal Acquisition Regulation (FAR) § 15.610. In this regard, however, agencies are admonished to protect the integrity of the procurement process by balancing the need for meaningful discussions against actions that result in technical leveling, technical transfusion, or auctions. See SeaSpace Corp., B-252476.2, June 14, 1993, 93-1 CPD ¶ 462. Accordingly, agencies are not to "spoon-feed" offerors, nor does the FAR contemplate "all-encompassing" discussions in which the agency identifies every aspect of an offeror's proposal that receives a rating below the maximum score. See ITT Fed. Servs. Corp., B-250096, Jan. 5, 1993, 93-1 CPD ¶ 6. Rather, agencies are required to lead offerors, generally, into the areas of their proposals that require attention. SeaSpace Corp., *supra*.

On the basis of the record discussed above, the agency clearly apprised Vitro of the area of its proposal that required attention, that is, labor rates which were below the level the agency believed necessary to attract and retain qualified personnel. Specifically, the agency's discussion question referred to the government's "minimum GS rates," stating that some of Vitro's labor rates were "unacceptably low." Significantly, Vitro's own response makes clear its understanding regarding "the government's minimum expected salary" for each labor category. Having unambiguously demonstrated this understanding, Vitro may not now credibly complain that it was prejudiced by the agency's failure to specifically list each category in which it or its subcontractors proposed rates below the clearly communicated criterion. The agency was not required to provide that level of specificity.

#### Source Selection Decision

Vitro also protests that the SSA improperly performed the cost/technical tradeoff in selecting QuesTech's proposal for award. Specifically, Vitro refers to the portion of the source selection decision which states that the SSA recognized that the agency was paying a [deleted] premium for QuesTech's technically superior proposal. Vitro argues that the SSA's quantification of the premium erroneously focused on the difference in the total proposed costs of the offerors; Vitro maintains that the premium should have been calculated only on the difference in labor costs, since other portions of the cost proposals (for example, material costs) differed only to the extent the offerors' burden rates differed.<sup>11</sup>

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<sup>11</sup>Section L of the RFP identified various amounts for material costs and other charges that offerors were to assume would be incurred, and to which each offeror was to attach its burdened rates.

Section M.1 of the RFP, titled "Basis for Award," stated

"Offerors are advised that . . . [a] Best Value analysis will be used to determine the most favorable overall value to the Government. The Best Value will be based on trade-offs between the offerors' Technical and Cost proposals and the evaluated/assessed Performance Risk."

Since the RFP unambiguously called for determination of the most favorable overall value, the SSA properly considered the offerors' total proposed costs in calculating the premium associated with QuesTech's proposal.

#### Other Protest Issues

Vitro raises various other arguments, including challenges to the agency's evaluation of sample tasks and assertions that QuesTech's technical proposal was rated too high or, alternatively, that Vitro's technical proposal was rated too low.<sup>12</sup>

Regarding the evaluation of sample tasks, Vitro complains that the number of man-hours and type of labor proposed by QuesTech differed from the agency's estimates for the various tasks.<sup>13</sup> In this regard, while Vitro's protest focuses on various areas in which QuesTech's proposal did not mirror the agency solution, it neglects to acknowledge that its own proposed approaches to the sample tasks similarly diverged from the agency estimates.

At the hearing, various agency officials testified concerning the evaluation of sample tasks. Among other things, the officials explained that the agency had individually considered each offeror's proposed approach to accomplishing the objectives identified in the sample tasks and had considered the degree and efficiency with which each offeror's individual responses to the sample task would accomplish the agency's objectives. Where offerors proposed a solution relying on differing levels or types of personnel than that assumed in the agency's solution, the proposed approach was not necessarily rejected; rather, the agency considered whether the proposed approach reflected an alternative, acceptable solution.

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<sup>12</sup>Among other things, Vitro also asserts that the agency failed to comply with its source selection plan, failed to properly consider Vitro's proposed fringe benefit package, failed to amend the solicitation to specifically include its IGCE for direct labor rates, and applied unstated evaluation criteria. We have considered all of these arguments and find them without merit.

<sup>13</sup>Agency personnel responsible for preparing the sample tasks for inclusion in the RFP also prepared proposed solutions; these solutions were not disclosed to the offerors.

In reviewing an agency's evaluation, we will not reevaluate the proposals; we will only consider whether the agency's evaluation was reasonable and in accord with the evaluation criteria listed in the solicitation. CORVAC, Inc., B-244766, Nov. 13, 1991, 91-2 CPD ¶ 454. A protester's mere disagreement with the agency's judgment is not sufficient to establish that the agency acted unreasonably. United HealthServ Inc., B-232640 et al., Jan. 18, 1989, 89-1 CPD ¶ 43.

We have reviewed the record regarding the agency's evaluation of the proposed sample tasks, and find that neither QuesTech's nor Vitro's proposed approaches mirrored the government solution. Nonetheless, with one exception, each offeror contemplated generally comparable aggregate levels of effort.<sup>14</sup> To the extent that Vitro asserts that its proposed approaches to the sample tasks were less divergent from the agency's solution than QuesTech's, we view the protest as simply expressing disagreement with the subjective judgments and ultimate conclusions of the agency evaluators.

Similarly, Vitro's assertions that its technical proposal should have been rated higher in various areas, or that QuesTech's technical proposal should have been rated lower, merely reflects Vitro's disagreement with the agency's subjective evaluation judgments and ultimate conclusions. For example, Vitro asserts that QuesTech's proposal of 14 subcontractors should have precluded its technical proposal from being rated "blue" with regard to the management subfactor of the technical evaluation factor.<sup>15</sup> Vitro asserts "it is axiomatic that management problems increase when there are multiple subcontractors." The agency responds that it considered both the positive and negative aspects of QuesTech's proposed subcontractors and concluded that the depth of resources and flexibility afforded by the multiple subcontractors was a positive aspect of QuesTech's proposal. Vitro has not shown that the agency's judgment in this regard was unreasonable. In

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<sup>14</sup>With regard to sample task No. 4, QuesTech's proposed level of effort was significantly higher than the agency's estimate. In reviewing QuesTech's proposal, the agency determined that QuesTech's proposed solution contemplated activities beyond those included in the agency's solution to this specific task. Accordingly, the agency did not view QuesTech's proposed solution as unreasonable, inefficient or unacceptable.

<sup>15</sup>Vitro proposed substantially fewer subcontractors than QuesTech.

summary, we do not find Vitro's disagreements with the agency regarding the technical evaluation of proposals to provide a basis for sustaining the protest.

The protest is denied.

Comptroller General  
of the United States