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## Decision

**Matter of:** Comprehensive Health Services, Inc.

**File:** B-292858.3; B-292858.6; B-292858.7

**Date:** April 27, 2004

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Computer Sciences Corporation, the intervenor.  
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of Energy, for the agency.  
John L. Formica, Esq., and Glenn G. Wolcott, Esq., Office of the General Counsel,  
GAO, participated in the preparation of the decision.

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### **DIGEST**

Agency properly downgraded protester's proposal to perform occupational medical services where the agency reasonably concluded that protester's proposed proprietary computer system posed numerous risks, and when specifically advised of these risks during discussions, the protester responded by providing only general assurances and unsupported conclusions regarding its system's capabilities.

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### **DECISION**

Comprehensive Health Services, Inc. (CHS) protests the award of a contract to AdvanceMed Corp. (an affiliate of Computer Sciences Corp.), under request for proposals (RFP) No. DE-RP06-03RL14383, issued by the Department of Energy (DOE), for occupational medical services.

We deny the protests.

The RFP was issued for occupational medical services to support the approximately 11,000 personnel currently working on or near DOE's Hanford site. The Hanford site consists of 586 square miles of land in southeastern Washington, and for almost 50 years "was dedicated to plutonium production for the nation's nuclear arsenal." Agency Report (AR) at 2. As a result of the plutonium production operations, Hanford has "become the nation's largest environmental cleanup project." *Id.*

The personnel working at Hanford are exposed to “chemical and radiological hazards, as well as more typical construction-related hazards.” AR at 1. Given Hanford’s history and the resultant health risks personnel are exposed to, the agency describes the occupational medical program as “an integral component of the Site’s safety management system and is critical for maintaining the health and safety of Hanford employees.” Id. The medical services to be provided under this RFP include, among other things, medical monitoring and qualification examinations, diagnosis and treatment of injury or illness, employee counseling and health promotion, field/facility visits, records and case management, and emergency and disaster preparedness. Id.

The contractor will be required to provide all personnel, facilities, equipment, materials, and supplies (with the exception of identified government resources) to perform the required occupational medical services. The RFP specified that “[t]he Contractor has the responsibility for total performance under this contract, including determining the specific methods for accomplishing the work effort, performing quality control, and assuming accountability for accomplishing the work under the contract.” RFP § C.2.

The RFP explained that the resultant contract will “reflect[] the application of performance-based contracting approaches and techniques that emphasize results/outcomes and minimize ‘how-to’ performance descriptions.” RFP § C.2. Consistent with this, the solicitation provided certain “[d]esired [o]utcomes” and “[d]esired [o]bjectives” for contract performance. RFP §§ C.3, 4. For example, the RFP listed “[a] Hanford Site occupational medical program that is cost-effective and of good value to the DOE and the United States taxpayer” as one of the desired outcomes, and the provision of “occupational medical service processes and systems that are consistent with an efficient and effective operation” as one of the desired objectives. Id.

The RFP provided for the award of a performance-based, cost-plus-award-fee service contract, with the fee based upon the agency’s evaluation of the contractor’s performance, as measured against specific evaluation criteria set forth in the contract. RFP §§ B.3, F.1. Award of the contract was to be made to the offeror submitting the proposal determined to represent the best value to the agency based upon the evaluation criteria of technical/management and cost. The RFP provided that the technical/management criterion was comprised of the following six sub-criteria, listed in descending order of importance: experience; medical approach; past performance; organization, controls, and systems; small business; and transition plan.<sup>1</sup> The solicitation provided relatively detailed descriptions of what would be

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<sup>1</sup> The organization, controls and systems and small business sub-criteria, however, were considered equal in importance.

evaluated under each sub-criterion, and informed offerors that in determining best value, the technical/management criterion would be of significantly greater importance than cost/fee.

The solicitation included detailed instructions for the preparation of proposals, and requested that proposals consist of three volumes, including a technical/management proposal volume and a cost/fee proposal volume. RFP § L.4. The proposal preparation instructions stated that technical/management proposals were to “provide a separate description” for each of the six sub-criteria that comprised the technical/management evaluation criterion. RFP § L.6(c). For example, offerors were instructed that in their description addressing the medical approach subcriterion (at RFP § L.6(c)(2)), they were to:

[p]rovide a description of [their] proposed medical approach, and how the proposed approach will provide safe, high quality, efficient, and timely delivery of the required occupational health services. The summary shall provide a description of the methods, benefits, and rationale for the Offeror’s proposed medical approach and quality assurance practices to accomplish the required occupational health services. Describe the procedures to be used to perform routine evaluations of worker health using medical surveillance data; and the approach and plans to conduct the on-going comprehensive quality assurance program, with particular emphasis on the self-assessment process to be used. The approach shall describe the methods in sufficient detail for the Government to assess the effectiveness of the medical approach.

The agency received four proposals by the RFP’s closing date. The proposals were evaluated, and the agency included the proposals submitted by three offerors, including CHS and AdvanceMed, in the competitive range. AR, Tab 7, Source Evaluation Board (SEB) Report, at 7. Written discussions were held, and final revised proposals (FRP) were requested, received, and evaluated. CHS’s proposal received an evaluated score of 744 out of 1,000 total points, with a most probable cost as determined by the agency of \$109,581,628; AdvanceMed’s proposal received 804 points with a most probable cost of \$107,509,953. AR, Tab 14, Source Selection Statement Addendum, at 2; Tab 15, Source Selection Statement at 5-6.

The source selection authority (SSA) concluded, based on his review of the evaluation record, that CHS’s lower evaluated point score represented a “significant difference” in technical merit between CHS’s and AdvanceMed’s proposals, noting that much of this difference was attributable to the low score CHS’s proposal received under the second most important evaluation criterion, medical approach. AR, Tab 15, Source Selection Statement, at 7. The SSA ultimately determined that the proposal submitted by AdvanceMed represented the best value to the

government, and a contract under the RFP was awarded to that firm. After requesting and receiving a debriefing, CHS filed these protests.<sup>2</sup>

CHS protests the agency's evaluation of its proposal under the medical approach evaluation sub-criterion, maintaining generally that the agency had no basis to downgrade CHS's proposal under this sub-criterion.

In reviewing protests against allegedly improper evaluations, it is not our role to reevaluate proposals. Rather, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the evaluation factors set forth in the RFP. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. The protester's mere disagreement with the agency's judgment does not establish that an evaluation was unreasonable. UNICCO Gov't Servs., Inc., B-277658, Nov. 7, 1997, 97-2 CPD ¶ 134 at 7.

Here, in evaluating each offeror's proposed medical approach, the agency considered the manner in which the offeror intended to comply with various solicitation requirements. Among other things, the solicitation established various requirements regarding periodic medical examinations, and provided that performance of these examinations must be supported by "either the existing computerized scheduling system" (provided to the contractor as government-furnished property (GFP)), or "a system of the Contractors' own choosing."<sup>3</sup> RFP § C.9(a)(3). With regard to the computerized system to be provided as GFP, the solicitation stated that the contractor must "[o]perate, maintain and improve the Employee Job Task Analysis (EJTA) system." RFP § C.9(g)(ii). The solicitation further identified additional computerized systems the contractor would be required to "[o]perate, maintain and improve." RFP § C.9(g)(1).

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<sup>2</sup> CHS filed an initial protest on January 22, 2004. Following its receipt of various documents provided by the agency in response to the protest, CHS filed supplemental protests on February 17 and 19.

<sup>3</sup> In response to offerors' questions, the agency elaborated that offerors were permitted to propose alternative systems "so long as the alternative systems meet contractual requirements." RFP Questions & Answers. In passing, we note that CHS has also argued, among other things, that this agency statement effectively eliminated the solicitation requirement that made an offeror's proposal of an alternative system contingent "upon approval from DOE." See RFP § C.9.3. We reject this argument. Solicitations are properly read in a manner that gives effect to all provisions. See, e.g., Sea-Land Serv., Inc., B-278404.2, Feb. 9, 1998, 98-1 CPD ¶ 47 at 5. Here, the agency's statement that any alternative system must meet contractual requirements cannot reasonably be construed as inconsistent with the related requirement that such proposed alternative systems also require "approval from DOE."

All of the competitive range offerors other than CHS proposed to use the GFP system to support their proposed medical approach. CHS proposed an alternative system, proprietary to CHS, that it described as “one of the most advanced computer based Occupational Health Management System[s] available.” AR, Tab 23, CHS’s Initial Proposal, Vol. II, § 2, Medical Approach, at 3. CHS maintains that its proposed system, identified as the Health Unit Management System (HUMS), “provides a fully automated patient, examination scheduling and demographics program, as well as an integrated database that enhances the use of information from the physical examinations for trend analysis, epidemiological investigations, health and wellness program, and reporting purposes.” *Id.* Additionally, CHS’s proposal identified another non-GFP system CHS intend to use—the “Health & Environmental Resource System” (HERS). *See* AR, Tab 23, CHS’s Initial Proposal, Vol. I, Experience, at 17.

In evaluating CHS’s proposed reliance on its alternative computerized systems, the agency expressed concern regarding CHS’s failure to adequately address various aspects of these systems. During discussions, the agency specifically advised CHS as follows:

The HUMS and HERS proprietary software raise significant concerns. Special systems such as these were not requested by DOE and may not be desired, particularly depending on potential restrictions on, or costs of, future use by the Government or contractors at Hanford. The CHS proposal does not make clear whether the Government and successor contractors will have a license to use the software or what the terms and conditions of such a license may be. In addition, transition upon contract award may pose more risk than the Government is willing to accept at this time. Issues of concern include initial operability of the system, deployment on the Hanford Local Area Network (HLAN), timing of transition, security, compatibility (e.g. regulatory, current data systems, operating systems, disability access), logistical support, training, impacts to other contractors, IT infrastructure, and the Hanford Occupational Health Process. The CHS proposal does not adequately address these issues.

AR, Tab 6, CHS Discussion Questions, at 3.

In its FRP, CHS generally acknowledged the agency’s concerns, but provided little additional information or explanation to alleviate them. Specifically, with regard to the agency’s concern regarding licensure for the agency to use CHS’s systems, CHS stated that its proposal did not include agency licensure, but that, at the “end of the contract,” CHS would “negotiate a license for the continued use of HUMS or HERS at the Hanford Site.” AR, Tab 21, CHS FRP, Medical Approach, at 7. CHS added that “[t]he cost of the license will be arrived at jointly between CHS and DOE and based on similar costs and products used in the occupational medical industry at that time.” *Id.* Regarding the agency’s concern about transitioning to the new systems,

CHS stated, without further explanation, that “implementation of HUMS and HERS at Hanford will follow the Hanford standard procedures,” and “[will] occur in parallel to ongoing medical efforts.” Id. at 9. CHS added that it had “successfully deployed the HUMS system for both government and commercial clients,” and that, upon receiving contract award, CHS would “provide information and migration plans in the appropriate change request format to the [agency] for their review and approval.” Id. at 8, 9.

The agency found CHS’s responses regarding the agency’s concerns to be inadequate; ultimately, the agency evaluated this aspect of CHS’s proposal as “very low Adequate,” assigning a total score of 100 points, out of a possible 250 points, under the medical approach evaluation sub-criterion. AR, Tab 7, Source Evaluation Board (SEB) Report, at 20, 22. In supporting its evaluation, the agency noted that CHS’s proposal to subsequently negotiate a license for the continued use of HUMS and HERS at the end of the contract period “obviously places the Government at an extreme negotiating disadvantage and results in extensive programmatic and cost risk.” Id. at 21-22. The agency further concluded that CHS’s FRP failed to meaningfully address the other concerns the agency had identified regarding HUMS and HERS. Specifically, CHS’s FRP did not provide any additional substantive information with regard to initial operability of the system, the timing of the transition, compatibility with current operating systems, or security of the system. Id. at 21. Finally, the agency noted that HUMS and HERS were “proposed as an integral component” of CHS’s proposed medical approach, and that its FRP did not present any alternatives to their use should problems arise. Id.

In challenging the reasonableness of the agency’s evaluation under the medical approach evaluation sub-criterion, CHS offers virtually no rebuttal regarding the agency’s primary concerns. For example, in pursuing this protest, CHS has not offered any substantive response to the agency concern that the implementation and use of CHS’s proprietary HUMS and HERS, without the agency obtaining a license for the use of those systems, poses obvious risks with regard to, among other things, a successor contract. Similarly, CHS’s protest submissions—like its FPR—do not substantively respond to the agency’s concerns regarding system security, compatibility with the agency’s current systems, or the impact that transition from the current systems to CHS’s proposed systems will have on contract performance.

Rather than providing specific responses to the agency’s concerns, CHS’s protest submissions echo its FRP submissions, providing nothing more than general assurances regarding the capabilities of CHS’s proposed systems. As noted above, with regard to the implementation of, and transition to, its systems, CHS generally asserts, without explanation or substantive support, that “CHS has successfully implemented our Occupational Health and Occupational Medicine programs for multiple organizations, both government and commercial,” and that “[t]he implementation of HUMS and HERS at Hanford will follow the Hanford standard

procedures.” AR, Tab 21, CHS FRP, Medical Approach, at 8, 9. Similarly, with regard to security, CHS merely states that HUMS is a “[s]ecure system (firewall).” Id. at 7.

On this record, in light of the protester’s failure to meaningfully address the agency’s multiple concerns regarding its proposed proprietary systems, we find no basis to question the reasonableness of the agency’s relatively low rating of CHS’s proposal under the medical approach evaluation sub-criterion.

Alternatively, CHS protests that the agency’s determination to rate CHS’s proposed medical approach relatively low due to the unaddressed risks and concerns associated with CHS’s alternative computer systems reflects unequal treatment. More specifically, CHS maintains that AdvanceMed’s proposal should have been similarly downgraded on the basis that AdvanceMed proposed to “assess” the existing systems and make “recommendations” to the agency as to how the existing systems could be enhanced. Protester’s Comments at 36; AR, Tab 19, AdvanceMed FRP, Vol. II, at 38, 50. CHS asserts that because of this, AdvanceMed proposed to “install new software tools” that constitute “custom applications” and, accordingly, AdvanceMed’s proposal should have been similarly downgraded. We disagree.

It is clear from the record that AdvanceMed did not proposed to replace the government’s existing systems with its own proprietary systems. To the contrary, AdvanceMed proposed to “assume operational responsibility for the existing system.” AR, Tab 19, AdvanceMed FRP, Vol. II, at 38, 50. Additionally, AdvanceMed proposed to review those existing systems and “identify opportunities to improve the current system,” and to identify “potential enhancements” to the existing system. Id.

The protester’s characterization of the awardee’s approach—which involves the use of the existing system and a review of that system to identify potential improvements—as equal, or even similar, to the protester’s proposal to install its own proprietary systems, is simply not reasonable. Rather, AdvanceMed’s proposed approach is consistent with the solicitation requirements that the contractor “operate, maintain and improve” the government furnished system. CHS’s assertion that the agency engaged in unequal treatment of the offerors is without merit.

Next, CHS maintains that the agency’s evaluation downgrading its proposed medical approach cannot be reconciled with the agency’s evaluation of CHS’s proposal as “outstanding” with regard to past performance. Protest at 4; Protester’s Comments at 34-35. In this regard, CHS points out that in evaluating CHS’s past performance, the agency commented favorably that CHS had “[u]tilized an effective medical program management system that included planning, budgeting, status tracking, reporting, baseline management, and work breakdown structure.” AR, Tab 7, SEB Report, at 26.

It is incumbent on an offeror to submit a complete and adequately detailed technical proposal for the agency to evaluate. Dimensions Int'l/QSOFT, Inc., B-270966, B-270966.2, May 28, 1996, 96-1 CPD ¶ 257 at 5. No matter how competent an offeror's past performance may have been, an agency may reasonably base an offeror's technical evaluation entirely on the information submitted with the proposal. Id. This is particularly true where the requirements for the contract being competed differ from requirements that were previously performed.

Here, the fact that CHS's past performance was rating "outstanding" does not eliminate CHS's obligation to provide adequate explanation and detail substantively addressing the agency's various concerns regarding performance of the contract requirements being competed here. To the extent CHS is protesting that the agency was required to consider its past performance as, in essence, a proxy for providing the otherwise-required information in its proposal, the protest is without merit.<sup>4</sup>

Finally, CHS protests that the agency's evaluation of its cost proposal was unreasonable. Specifically, the protester contends that the agency acted unreasonably in accepting CHS's proposed overhead rate of [DELETED] percent, even though the Defense Contract Audit Agency (DCAA) "confirmed the proposed [DELETED] rate is far lower than any of CHS's other overhead rates" (including the actual overhead rate of [DELETED] percent at another location), but then rejecting

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<sup>4</sup> In its comments responding to the agency report, submitted to our Office on March 12, 2004, CHS argues, for the first time, that the 150-page limitation for technical/management proposals set forth in the RFP (at §L.4) effectively precluded CHS from better explaining its HUMS and HERS and should have been waived by the agency (with CHS apparently receiving an opportunity to submit a second FRP), and that the agency's evaluation of its proposal under the medical approach subcriterion included the consideration of certain "unannounced criteria." Protester's Comments at 28; 33. In order for our Office to meaningfully consider protest allegations, our Bid Protest Regulations require that protest issues such as these be presented within 10 days after the basis for protest is known, or should have been known. 4 C.F.R. § 21.2(a)(2) (2004). The piecemeal presentation of protest issues is not permissible; rather, each protest ground must independently satisfy the timeliness requirements. Armstrong Motorcycles Ltd., B-238436, B-238436.2, June 5, 1990, 90-1 CPD ¶ 531 at 3-4. Here, counsel for CHS received the evaluation and source selection documents on February 12. However, CHS failed to protest that the page limitation should have been waived by the agency or that the agency's evaluation was based on certain unannounced evaluation criteria, until it submitted its comments on the agency report on March 12. As such, these arguments are untimely and will not be considered. To the extent the protester is arguing that the page limitation itself is improper, such an argument would only be timely if filed prior to the time set for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1) (2004); The Community Partnership LLC, B-286844, Feb. 13, 2001, 2001 CPD ¶ 38 at 3 n.2.

CHS's proposed general and administrative (G&A) rate of [DELETED] percent and adjusting CHS's proposed costs upwards to reflect the firm's current G&A rate of [DELETED] percent as confirmed by DCAA. Protester's Comments at 24-25. AR, Tab 11, CHS Price Analysis Report, at 10.

The record shows that, even if this aspect of CHS's protest were meritorious, CHS would not be prejudiced. In this regard, the agency's upward adjustment to CHS's G&A rate resulted in the addition of [DELETED] to CHS's most probable costs as calculated by the agency. If these costs were subtracted from the most probable costs as evaluated by the agency, the most probable costs associated with CHS's proposal would total [DELETED]. Although this would result in CHS's proposal having a lower most probable cost than AdvanceMed's proposal, which totaled \$107,509,953, as explained below, we fail to see how this could reasonably affect the award decision.

In making the source selection, the SSA concluded that under the technical/management evaluation criterion, which in accordance with the RFP was "significantly" more important than cost in determining best value, the difference in technical merit between CHS's and AdvanceMed's proposals was "significant." The SSA added that AdvanceMed's proposal was "clearly superior" to the proposal submitted by CHS. AR, Tab 15, Source Selection Statement, at 9. Further, the SSA noted that CHS's proposal presented "numerous risks arising out of its use of proprietary software that could significantly affect both performance and costs." Id. With regard to proposed costs, the SSA also found that the \$109,359,471 most probable cost of CHS's proposal was "comparable" to the \$107,509,953 most probable cost of AdvanceMed's proposal. Accordingly, under the circumstances here, even if CHS's most probable costs should have been evaluated as totaling [DELETED], the offerors' evaluated costs would presumably still be "comparable," with AdvanceMed's proposal retaining its significant advantage with regard to technical merit under the significantly more important technical/management criterion.<sup>5</sup>

In short, given the SSA's views that the AdvanceMed's proposal was clearly superior with regard to technical merit, the fact that the RFP provided that technical merit was significantly more important than cost, and the relative comparability of the offerors' costs under either the protester's or agency's most probable cost evaluations, we find no reasonable possibility that the award decision was affected

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<sup>5</sup> That is, given that CHS's and AdvanceMed's evaluated costs were considered "comparable" even though they differed by [DELETED] (with AdvanceMed having the advantage), they would presumably remain "comparable" if they differed by [DELETED] (with CHS having the advantage).

by the agency's allegedly improper upwards adjustment to CHS's proposed G&A rate. See The Xerxe Group, Inc., B-280180.2 et al., Sept. 28, 1998, 98-2 CPD ¶ 80 at 6; McDonnell Douglas Corp., B-259694.2, B-259694.3, June 16, 1995, 95-2 CPD ¶ 51 at 27-28.

The protests are denied.

Anthony H. Gamboa  
General Counsel