

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

Morrow  
120042-

**FILE:** B-202473.2**DATE:** December 6, 1982**MATTER OF:** Analytical Services, Inc.--Reconsideration**DIGEST:**

Prior decision, sustaining protest against award of professional services contract, is affirmed. Record shows that agency refined definition of "professional," not otherwise defined in solicitation, in such a way that it could have had a material impact on the evaluation of proposals, but did not apprise protester of refinement, resulting in unequal competition.

Arthur D. Little, Inc. (Little), requests reconsideration of our decision in the matter of Analytical Services, Inc., B-202473, March 9, 1982, 82-1 CPD 214. In that decision, we sustained a protest by Analytical Services, Inc. (Anser), against a Defense Supply Service (DSS) contract awarded to Little for personnel, facilities and equipment to provide quick response analyses concerning the Tri-Services Medical Information Systems under request for proposals (RFP) No. MDA903-80-R-0129.

Anser protested because DSS treated "research associates" differently in its evaluation of Little's and Anser's proposals. Little considers research associates to be professionals and detailed in its proposal the hours its research associates would provide under the contract; Anser does not consider its research associates to be professionals, did not break out their hours, and included the cost of research associate services in an indirect cost pool covering several employee classifications, including support personnel. DSS evaluated the proposals, in part, by adjusting each offeror's proposed costs and level of effort to the equivalent of the RFP's estimate of 57 staff-years of professional effort to arrive at the cost per hour of professional effort; in performing this analysis, DSS applied its own definition of "professionals," which included research associates. The RFP did not disclose that the evaluation would be based on this definition of professionals, and we found that DSS failed to apprise Anser

during negotiations that research associate hours might be an important part of the evaluation. We concluded that DSS's failure to advise Anser of this factor denied Anser a fair and equal opportunity to compete for the contract. Both DSS and Little disagree.

Little contends that Anser had a clear obligation to delineate its proposed staff hours in its proposal and contends that our decision was in error because Anser had the same opportunity and responsibility to respond to the RFP in detail as did Little. DSS concurs and further suggests that Anser's protest conflicted with other Anser statements and with Anser's accounting system. DSS notes that Anser did not consider its research associates to be professionals and that Anser included its research associates in an indirect cost pool which DSS contends is inconsistent with any direct benefit to the contract. DSS also points out that Anser specifically stated in discussions that the personnel in its indirect cost pool would not benefit the contract directly in response to DSS's question "Are the direct labor hours for this category included in the estimated hours shown on the [Department of Defense] 633's or how do these people contribute in a direct manner to the performance of this contract?" DSS asserts that this question should have put Anser on notice of the need for more detailed information.

Little and DSS have provided no information which was not part of the record before us in our prior decision. Instead, the request for reconsideration is largely an objection to our prior decision and an effort to reargue points which we have already considered. We do not find anything in the request which convinces us that our decision was in error.

The essential point of our decision was that Anser was denied an equal opportunity to compete for this professional services contract because Anser was not advised--and had no way to know--what DSS meant by "professional services." In Joule Technical Corporation, B-197249, September 30, 1980, 80-2 CPD 231, we contrasted the degree of specificity required in discussions when a solicitation specifically calls for certain information with that required when the solicitation is less definite in expressing the agency's needs. We stated that " \* \* \* if the solicitation is not as specific in its identification of the Government's requirements or omits reference to one of the evaluation factors to be employed in the evaluation of proposals, the agency's discussions should be more specific in their identification of deficiencies." The RFP here did not define "professional" and DSS's "direct benefit" question, asked by DSS's

cost evaluator in the context of discussions concerning Anser's cost proposal, was not sufficient to put Anser on notice that its technical proposal was being questioned or that DSS's interpretation of "professional" differed from Anser's. DSS offered no explanation as to why it could not simply have told Anser what would be included in the evaluation as professional hours. In these circumstances, we continue to conclude that DSS failed to apprise Anser of a more precise definition of DSS's requirements which could have materially affected the evaluation of proposals and, in so doing, denied Anser an opportunity to compete equally with other offerors.

We do not reach DSS's comments and arguments concerning the interplay of Anser's accounting system and its proposal since DSS's failure to advise Anser of the refinement denied Anser the opportunity to seek ways to accommodate both its accounting system and DSS's need for more detail. Consequently, these comments and arguments are not relevant.

Our decision is affirmed.

*for*   
Comptroller General  
of the United States