

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

FILE: B-186300

DATE: September 7, 1976

MATTER OF: American Telephone and Telegraph Company

61450  
98072**DIGEST:**

Protest against agency insistence on "on-premise" telephone system is denied where record does not establish that agency's determination of its minimum needs is unreasonable. However, matter will be further reviewed pursuant to audit function in light of indications in record that substantial savings to Government would result in future procurements if Government's minimum needs could be satisfied by off-premises system.

The American Telephone and Telegraph Company (AT&T) has protested the rejection of the proposal submitted by Mountain Bell Telephone and Telegraph Company (Mountain Bell) in response to request for proposals (RFP) CDPA-76-4 issued by the General Services Administration (GSA). This RFP solicited proposals for a telephone system to be installed at the Veterans Administration (VA) Hospital in Albuquerque, New Mexico.

The RFP notified prospective offerors that to be acceptable the proposed system had to include the features identified in the specification included with the RFP. Paragraph 6.0a of the specification provided:

"The basic requirement is for an on-premise automatic Telephone System with attendant switchboards/consols. \* \* \*"

Mountain Bell proposed its 101 ESS (Electronic Switching System) which is considered by that firm to be an "on-premise" system. In fact, however, system elements are included which are located in the central office of the telephone company, and Mountain Bell admits that the completion of calls between telephone stations on the Hospital premise relies on the function of the system elements located in the central office.

By letter dated March 16, 1975, the contracting officer sought clarification from Mountain Bell regarding the "on-premise" requirement. On April 2, 1976, Mountain Bell responded that the 101 ESS would provide service of equal reliability to an "on-premise" system. It was indicated that a dual cable arrangement

which would provide a primary and secondary route between diverse sides of the VA Hospital and the telephone company central office would insure a degree of reliability adequate to meet VA requirements. On April 16, 1976, the contracting officer notified Mountain Bell that its proposal was not acceptable for the following reason:

"Your proposal does not meet the on-premise requirement. It consists of two equipment areas -- the Control Unit, located off premise, and the Switch Unit, located on premise. The Switch Unit cannot process calls independently of the Control Unit, as data must be interchanged between the two units for all calls. The proposal to provide dual, geographically separate cables between the Switch Unit and the Control Unit, while better than a single cable, still presents hazards which make the system more susceptible to failure than a self-contained on-premise system. Other vendors have offered systems which meet the VA's requirements."

Mountain Bell was given an opportunity to revise its proposal to meet the "on-premise" requirement, but to date has declined to offer such a system, although it admits it has the capacity to do so.

Mountain Bell (through AT&T) argues that its proposal was responsive in principle to the mandatory requirement for an "on-premise" system, since in Mountain Bell's view, its proposed system is as reliable as an "on-premise" system. The protester cites a Bell Telephone Laboratories study which computed the reliability of two cables geographically separated to be 99.99992 percent which translates to 42/100 of a minute average downtime per year. This high degree of reliability is comparable to any completely on-premise system, according to Mountain Bell. In addition, the protester argues that its proposed system should be considered for award because it offers significant savings to the Government through the use of existing equipment serving a nearby hospital.

The VA, however, is unwilling to consider an off-premise system. According to GSA:

"The VA [as user agency] contends that the intra-hospital communication capability is essential to their needs and that it must operate without resort to external control units located off premise. In their view, the internal hospital communications must be able to proceed without being dependent on equipment external to the hospital."

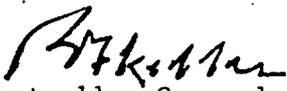
We have consistently recognized that responsible agency officials are accorded a broad range of judgment and discretion in making determinations of their agency's minimum needs and that an agency's determination in this regard is not subject to question unless there is a showing that the determination has no reasonable basis. Julie Research Laboratories, Inc., 55 Comp. Gen. 374 (1975), 75-2 CPD 232; Manufacturing Data Systems, Incorporated, B-180608, June 28, 1974, 74-1 CPD 348 and the cases cited therein. Nonetheless, we have required such determinations to be the product of informed and critical judgments. Winslow Associates, 53 Comp. Gen. 478 (1974), 74-1 CPD 14.

In the present case, Mountain Bell challenges the VA position because it believes that its 101 ESS system is equally as reliable as a totally "on-premise" system and is significantly less expensive. On the other hand, VA believes greater system reliability would result from a totally "on-premise" system both because the system would be solely under VA control and because VA would not have to depend on another party for any necessary repair work. Based on this record, we are unable to conclude that the VA's determination that only an "on-premise" system will satisfy its actual needs is without a reasonable basis. Furthermore, we note that VA's determination of minimum need did not create a sole-source situation, since there has been adequate response to this RFP from industry, and Mountain Bell itself admits it could supply a system totally responsive to the RFP. In other words, Mountain Bell was not precluded from competing for this procurement but was precluded only from offering what it believes is a better buy for the Government.

In view of the above, the protest is denied. However, we also note that VA's position is based primarily on its belief as to its actual minimum needs rather than on any empirical data, and that similar procurements are anticipated for other VA hospitals. In light of these circumstances and AT&T's

B-186300

assertion that its off-premises system would cost the Government substantially less than an "on-premise" system, we intend to review this matter further in connection with our audit function to determine the likelihood of the VA's being able to satisfy its minimum needs with a less costly telephone system.

  
Acting Comptroller General  
of the United States