

DOCUMENT RESUME

03601 - [A2513647]

[Protest against Technical Evaluation of Awardee's Proposal].
B-188551. September 7, 1977. 4 pp.

Decision re: Tymshare, Inc.; by Robert F. Keller, Deputy
Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1300).
Contact: Office of the General Counsel; Procurement Law I.
Budget Function: General Government; Other General Government
(806).

Organization Concerned: Department of the Navy; Naval Regional
Procurement Office, Long Beach, CA; United Computing
Systems, Inc.

Authority: B-186858 (1977). 55 Comp. Gen. 374. 4 C.F.R.
20.2(b)(1).

The protester objected to the award of a contract, charging that the awardee was unable to meet the core memory and software requirements of the solicitation and that the solicitation specifications were deficient. GAO did not review the agency's technical evaluation since there was no showing that the evaluation lacked a reasonable basis. The protest against the solicitation specifications was untimely since it was not filed prior to the date for receipt of initial proposals. (Author/SC)

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DECISION



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

FILE: B-188551

DATE: September 7, 1977

MATTER OF: Tymshare

DIGEST:

1. Where protester contends that awardee is unable to meet core memory and software requirements of solicitation, GAO will not review agency technical evaluation which found successful offeror's proposal technically sufficient absent showing, not made here, that evaluation lacks reasonable basis.
2. Protest of deficiency in solicitation must be presented prior to date for receipt of initial proposals. Protest first made in best and final offer is untimely and will not be considered.

Tymshare protests the award of a contract to United Computing Systems, Inc. (UCS), under request for proposals (RFP) N00123-77-R-0310 issued by the Naval Regional Procurement Office, Long Beach, California.

The RFP in question was issued for the procurement of interactive time-shared computing services on an IBM 371/45 or larger computer for the Facilities Systems Office, United States Naval Construction Battalion Center, Point Hueneme, California, at the Naval Ship Weapons Systems Engineering Station. The date for receipt of initial proposals was specified as December 3, 1976. Three proposals were received in response to the solicitation. After negotiations with all offerors and submission of intermediate "final" proposals, each of the three offerors was advised by letter dated February 4, 1977, of the deficiencies in its proposal and was requested to submit a revised final proposal by February 11, 1977. By letter dated February 8, 1977, UCS specified the availability dates of certain software packages, thereby curing the deficiency noted in its proposal. Tymshare, the incumbent contractor, in a letter dated February 11, 1977, elected to address the noted deficiency in its proposal (high cost) by contesting the pricing formula set forth in the RFP without changing its price. The contract was awarded to UCS on March 2, 1977. Tymshare's protest was filed with our Office on March 8, 1977.

B-180551

Tymshare's protest raises three independent questions. We shall review each of these in turn.

Tymshare first contends that UCS is unable to meet the core memory requirements of the solicitation. In this connection, the RFP required that 500,000 bytes of core memory be available at all times and that up to 1 million bytes be available for interactive time-sharing sessions. Tymshare bases its allegation on the assertion that UCS's price list for the General Services Administration Teleprocessing Services Program (TSP) does not state a price for interactive time-sharing services utilizing more than 245,760 bytes of core storage. Tymshare finds it "* * * unusual that a price is not offered for a service which UCS, Inc. claims it can provide under subject solicitation."

We do not share Tymshare's concern. We note in particular that UCS's final proposal offered to make available up to 1.34+ million bytes at all times and that the agency's evaluation indicates that the computers and equipment to be used were already in place at the time of final proposals. We have repeatedly stated that the primary responsibility for the technical evaluation of offered products lies with the procuring agency and that we will not disturb its judgments on technical matters absent a showing that it lacked a reasonable basis. Computer Network Corporation; Tymshare, Inc., B-186858, January 14, 1977, 77-1 CPD 31; Julie Research Laboratories, Inc., 55 Comp. Gen. 374 (1975), 75-2 CPD 232. We do not think that Tymshare's suspicions have constituted sufficient grounds to question the agency's determination that UCS offered adequate storage capacity.

Tymshare also contends that UCS is unable to meet the software requirements of the solicitation. In this connection, the RFP stated the following:

"SECTION F - DESCRIPTION AND SPECIFICATIONS

* * * * *

"1.3 Software. The following software or its equivalent must be accessible during the times listed in paragraph 1.7 of this section.

* * * * *

B-188551

"1.3.4 Query and report generation system which supports exception and summary analysis of large data files. (FOCUS, or equivalent).

"1.3.5 Hierarchically structured system which permits query access to large data files with complex dependent structures. (TYMSHARE SYSTEM 2000 or equivalent)"

Tymshare states that UCS is unable to offer an equivalent to FOCUS. In lieu of providing a separate software equivalent to FOCUS, UCS proposed that its offered System 2000 data base management system be utilized to perform the functions attributed to FOCUS. In this regard, we note that System 2000 is a proprietary software package which UCS obtains from the same vendor as does Tymshare and which incorporates the inquiry and report writing capability to support exception and summary analysis of large data files. The requiring activity reviewed the UCS proposal and determined that UCS's offered equivalents would meet the needs of the agency, including the substitution of the System 2000 inquiry and report writing functions for FOCUS.

We reiterate here what we stated above concerning our review of an agency's technical assessments. We find nothing in the record which convinces us that the agency's judgment in this regard was not reasonably based.

Lastly, Tymshare protests the cost evaluation method applied in this procurement. We note that the method to be used was stated in the RFP. Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1976), states in pertinent part:

"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals. * * *"

The RFP was issued on November 19, 1976, and the date for receipt of initial proposals was specified as December 3, 1976. Tymshare did not question the cost evaluation method until its letter of February 11, 1977, presenting its best and final offer. We conclude, therefore, that this portion of Tymshare's protest is untimely and not for consideration on the merits.

B-188551

Accordingly, the protest is denied.

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Deputy Comptroller General
of the United States