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J. Brown
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DECISION



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

FILE: B-191834 **DATE:** October 18, 1978
MATTER OF: Conrac Corporation

DIGEST:

1. Determination to supply items as Government Furnished Property to prime contractor is matter of contract administration and not for GAO review.
2. Claim for proposal preparation costs is denied because record shows agency followed applicable regulation.

Conrac Corporation (Conrac) protests the failure of Martin Marietta Corporation, Denver Division (MM) to award it a subcontract to supply two Display Electron Units under MM's prime contract with the National Aeronautics and Space Administration (NASA) for a Teleoperator Retrieval System (TRS). The TRS is to be used in conjunction with the Space Shuttle Program. Its initial use will be in connection with NASA's current Skylab Reboost/Deorbit Mission. Conrac contends that NASA directed MM to cancel its proposed procurement of Conrac's units and to negotiate directly with IBM.

On November 7, 1977 MM was awarded a letter contract for the TRS. Subsequently on February 10, 1978 MM presented NASA with a proposal for definitization of the letter contract which included a proposed subcontract with IBM for development and fabrication of two Display Electron Units for \$1,178,000. Conrac then submitted a proposal to supply these units, which MM ultimately included in a revised proposal to NASA. The revised proposal submitted by MM on April 13 followed discussions between MM and Conrac and offered Conrac units for \$597,000. However, MM added administrative costs which brought the total cost to NASA for the development and supply of the two units to \$938,000.

On April 14, in response to an inquiry by NASA's manager for this project, the director for the Space Shuttle Program directed release of two shuttle multi-function cathode-ray tube display sets to the TRS program. These units, which are currently being manufactured by IBM under a subcontract with Rockwell International (the prime contractor for the Space Shuttle), must be modified to be used in TRS. As a result of the release of these units NASA advised MM during discussions held April 18-22 that the two units from IBM would be provided as Government Furnished Equipment (GFE) to the TRS project and that the only cost involved would be the modifications. MM revised its proposal to include a \$360,000 subcontract with IBM to modify the units for TRS use. MM has given IBM authorization to commence the modification work. The actual cost of the IBM units is reported to be from \$375,000 to \$385,000 per unit. This cost is not included in NASA's cost estimate of the use of GFE because the units were previously contracted for and after use in the TRS program they will be retained in the Space Shuttle inventory.

Conrac objects to NASA's action on the basis that it supplied MM with the lowest priced technically acceptable offer for the units and would have been awarded the subcontract but for NASA's interference. The company also notes that it offered a much shorter delivery schedule than that proposed by IBM for modifying the GFE. The protester complains that NASA should have offered the GFE to MM at the outset of the procurement and not have permitted Conrac to expend considerable money and effort in submitting and revising its proposal in a fruitless exercise.

The decision regarding the use of GFE by NASA is governed by NASA Procurement Regulation 13.201, which provides, in pertinent part, as follows:

"Providing Government Property. With certain exceptions, it is the policy of NASA that contractors will furnish all property required for the performance of Government contracts. * * *

"(b) Nevertheless, there are circumstances where it may be essential to contractor performance or otherwise advantageous to NASA to provide Government property to a contractor. For example, * * * NASA may achieve a lower contract cost by offering existing Government property or new property attainable at prices lower than those available to the contractor.

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"(i) Government material and space property may be provided when it is in the best interest of the Government by reason of economy, standardization, the expediting of production, or other appropriate circumstances."

Thus the question as to whether equipment should be supplied on a government-furnished basis to prime contractors is a matter of contract administration and not for our review. B-177543, March 6, 1973.

With respect to Conrac's request for bid and proposal costs, proposal preparation costs will be allowed where the Government acted arbitrarily or capriciously with respect to a claimant's bid or proposal; R.J. Beasley Construction Corporation, B-190154, October 5, 1977, 77-2 CPD 274. Since the record indicates that NASA furnished MM the units in accordance with the applicable regulation there is no support for a claim for proposal preparation costs.

A. J. K...
Deputy Comptroller General
of the United States