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DECISION



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

FILE: B-195684

DATE: November 29, 1979

MATTER OF: Amex Systems, Inc.

DIGEST:

Protest against agency determination not to contract-out is denied since allegation of erroneous cost comparison is not supported.

Amex Systems, Inc. (Amex), protests the Air Force, Aerospace Defense Command's (Air Force), determination that certain support services for the Point Arena, Air Force Station, California, will continue to be performed by Government personnel, as opposed to outside contractors. We are dismissing the protest since the protester has not met its burden of proving that the Air Force determination was erroneous.

The complained-of determination, made under the aegis of Office of Management and Budget (OMB) Circular No. A-76 (A-76), essentially rests on the outcome of a comparison of the cost of Government performance (in-house or in-service cost) versus the cost of contractor performance (contract-out cost). The contract-out cost is decided by soliciting proposals for the required services from potential contractors. Amex is a potential contractor for the Point Arena support services.

Specifically, Amex objects to the Air Force's cost comparison procedures. Normally, A-76 cost comparisons are conducted along the lines set out in OMB's "Cost Comparison Handbook" (Handbook). However, in this case, both Amex and the Air Force agree that any cost comparison conducted prior to September 30, 1979, must, by statute (section 814 of the Department of Defense Appropriation Authorization Act, 1979 (Act), Pub. L. No. 95-485, 92 Stat. 1611, 1625), be made in accordance with procedures in effect prior to June 30, 1976. The Air Force reports: (1) that the solicitation was issued on January 4, 1979; (2) that Handbook procedures are part of a March 29, 1979, revision of A-76

which states that revised procedures "need not be applied to studies in process where a solicitation for contract bids or proposals was issued prior to the effective date [May 1, 1979]"; and (3) that the Act requires the utilization of the procedures which the Air Force actually used until the Act's expiration on September 30, 1979.

Notwithstanding the solicitation's issuance date, Amex argues that since performance would not begin until October 1, 1979, the Air Force ought to have employed the Handbook procedures in making the cost comparison. Amex argues that it was prejudiced by the Air Force's application of the Act's procedures instead of the Handbook procedures because the Act's procedures resulted in the comparison of what are essentially dissimilar services. Amex claims that an example of the inequity of the procedures under the Act is that Amex's proposal was required to reflect the cost of fully manning the Point Arena station on October 1, 1979, while the in-house cost was based on a less than fully manned station on October 1, 1979.

The Air Force, however, denies that its in-house cost estimate was based on a less than full workforce cost.

Amex disputes the Air Force denial, arguing that notwithstanding the official Air Force position, Amex was advised by Air Force personnel in the field that "Air Force regulations allowed the Air Force a longer period of time to staff the site with civilian employees." In Amex's view, this "discrepancy" between the official Air Force position and the Air Force field position should be resolved by GAO. In support of its view, Amex cites our decision in Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD 38.

Aside from Amex's allegation the record is devoid of any indication that the "discrepancy" exists. In our view, Amex has failed to present the information and evidence necessary to substantiate its case. Kurz-Kasch, Inc., B-192604, September 8, 1978, 78-1 CPD 181.

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Since we cannot determine on the record that the protested cost comparison was either faulty or misleading, we are in no position to conclude that the Air Force's actions have been detrimental to the integrity of the procurement system.

Accordingly, the protest is denied.

A handwritten signature in cursive script, appearing to read "Milton J. Aorlan".

For The Comptroller General
of the United States