

DECISION



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

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FILE: B-201336

DATE: July 20, 1981

MATTER OF: Neshaminy Valley Information Processing, Inc.

DIGEST:

It is not GAO's function to evaluate technical proposals. Contracting agencies have reasonable range of discretion in determining which proposal is acceptable, and their determination will not be questioned, unless there is clear showing of unreasonableness, arbitrary abuse of discretion, or violation of procurement statutes and regulations.

Neshaminy Valley Information Processing, Inc. (Neshaminy) protests the issuance of a purchase order to Computer Network Corporation (COMNET) by the Veterans Administration (VA) under the General Services Administration's (GSA) teleprocessing services program (TSP). Neshaminy contends that it should have been awarded the contract as its offer was most favorable to the Government. For the following reasons we believe VA's award to COMNET was proper.

Neshaminy, COMNET and other companies have entered into Multiple Award Schedule Contracts (MASCs) with GSA under the TSP. The TSP is the mandatory means whereby Federal agencies acquire teleprocessing services from the private sector. See Federal Property Management Regulations, Temporary Regulation E-47 as amended. Under the program, authorized user agencies may place orders for teleprocessing services against the MASCs which are negotiated by GSA and provide Government-wide volume discounts.

[Protest of VA Purchase Order Issuance]

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The MASC describes in some detail the procedures for selecting a source for services. Briefly, paragraph D.9 (Basis For User Source Selection) provides that the principal evaluation criterion is least system life cost. Paragraph D.10 (User Source Selection Considerations) provides, among other things, that Government activities selecting a source for a particular order should prepare a description of the services needed, develop and apply technical and cost evaluation criteria, and eliminate from consideration sources which fail to meet the requirements. Selection of a contractor, in short, is to be on the basis of which source meets the user's requirements at the lowest overall cost to the Government.

The teleprocessing services involved in the present procurement are for the VA's Cooperative Studies Program Management Information System (CSPMIS). On June 23, 1980, the VA solicited Neshaminy and other schedule contractors to participate in the procurement with a notice containing a system description and a list of mandatory and desirable requirements. Conversion cost was one of the elements of VA's evaluation criteria.

On August 29, the VA sent the following letter to all vendors that had met the VA's TSP requirements specified in its June 23, notice:

"Your firm has met all of the mandatory and desirable requirements of the * * * VA CSPMIS teleprocessing services request. However, since an award of the contract to your company would require conversion from the incumbent vendor, and an unsuccessful conversion would be detrimental to our interests, we require a detailed conversion proposal from your company.

* * * * *

"Your conversion proposal will be evaluated on the basis of price, technical expertise, and completeness. A technically unacceptable conversion proposal will result in the elimination of your firm from further consideration."

On September 12, Neshaminy submitted its conversion proposal to the VA. After evaluation, the VA found Neshaminy's conversion proposal to be technically unacceptable because: 1) Neshaminy had no previous experience with a Database Management System (DBMS) required by the VA; 2) Neshaminy proposed to use a "SEED" DBMS which has never been operational; and 3) Neshaminy's lack of experience with programming language conversions. Subsequently, COMNET was selected as the successful vendor by the VA.

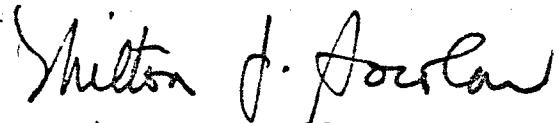
Neshaminy believes that it should have been selected by the VA since it proposed the lowest overall costs and admittedly met the VA's initial requirements. We disagree. While the initial notice containing VA's evaluation criteria specified only conversion costs as an evaluation criterion, the VA's August 29, 1980 letter, requiring detailed conversion proposals from all potential vendors, clearly constituted an amendment to the initial notice which expanded the scope of vendor evaluation to include other conversion requirements.

Concerning VA's evaluation of Neshaminy's conversion proposal as unacceptable, it is not our function to evaluate proposals in order to determine which should have been selected for award. The determination of whether a proposal is technically acceptable is the responsibility of the procuring agency since it must bear the burden of any difficulties incurred by reason of a defective evaluation. In light of this, we have held that procuring officials enjoy a reasonable degree of discretion in the evaluation of proposals and such discretion must not be disturbed unless shown to be arbitrary or in violation of the procurement statutes and regulations. Industrial Technological Associates, Inc., B-194398.1, July 23, 1979, 79-2 CPD 47. Thus our Office will not substitute its judgment for that of the procuring agency by making an independent determination. John M. Cockerham & Associates, Inc.; Decision Planning Corporation, B-193124, March 14, 1979, 79-1 CPD 180.

We believe Neshaminy has failed to show defects in the VA's evaluation pursuant to its revised notice. Neshaminy does state, however, that the VA was previously aware of the grounds which resulted in its detailed conversion proposal being found unacceptable. This fact by itself forms no basis to question the validity of VA's evaluation

of its proposal as technically unacceptable since the record does not show the evaluation to have been done in other than good faith and a reasonable manner.

Accordingly, the protest is denied.



Acting Comptroller General
of the United States