FILE: B-208359 DATE: January 10. 1983

MATTER OF: Philips Information Systems, Inc.,

DIGEST:

Proposal submitted in response to a Commerce Business Daily announcement of intent to place an order under a General Services Administration schedule contract to renew leases for word processing equipment properly was not considered where the equipment offered did not meet the agency's minimum needs.

Philips Information Systems, Inc., protests the issuance of a purchase order by the Federal Emergency Management Agency (FEMA) under Raytheon Data Systems' schedule contract No. GS-00C-03022 with the General Services Administration. The purchase order renewed leases for Raytheon word processing equipment. Philips submitted a proposal in response to a notice in the Commerce Business Daily (CBD) of FEMA's intent to renew the leases. FEMA determined that Philips' proposal did not meet the Government's needs and, in any event, would not provide a lower overall cost to the Government than Raytheon's schedule contract. Philips contends that the evaluation of its proposal was improper in several respects. We deny the protest.

The CBD notice of the intent to renew the lease with Raytheon indicated that the procurement synopsis was not a request for proposals, so that no contract award would be made on the basis of proposals received in response. FEMA nonetheless received proposals from Lanier and Philips. The agency concluded that Lanier's proposal did not contain sufficient information to permit an evaluation. FEMA evaluated Philips' proposal and determined that it did not meet the agency's needs and that, in any event, the schedule contract provided a lower overall cost. FEMA then placed the order with Raytheon.

Philips contends that the evaluation was inadequate. Specifically, Philips complains of the relatively brief period (2 days) in which the evaluation was conducted, the evaluator's lack of expertise with respect to word processing equipment, and the evaluation report's lack of specificity. The protester cites a memorandum from the contracting officer to the evaluator which criticizes the initial review for lack of thoroughness, failure to detail the agency's needs, and failure to provide a specific detailed explanation of the proposal's deficiencies. The protester also argues that the findings concerning technical acceptability and cost are erroneous.

At the outset, it should be noted that the evaluator responded to the contracting officer's memorandum with a more definitive report that apparently allayed the contracting officer's concerns. It appears that most of the problems discerned by the contracting officer in the initial report relate to the lack of a detailed explanation of the agency's minimum needs, which is normally contained in a solicitation. Since the purpose of the evaluation evidently was to determine whether a competition was in the best interest of the Government, and only then would a solicitation be formulated, it is understandable that a formal, detailed statement of needs did not exist at the time of Moreover, as the evaluator points out, FEMA is evaluation. in the process of conducting a study to determine its agency-wide word processing needs.

In any event, despite inadequacies in the evaluation perceived by the protester and, at one point, by the contracting officer, the evaluation documents do articulate two basic needs of FEMA. First, because documents processed by FEMA frequently are classified, certain word processing units must be Tempest-approved, that is, the equipment must be certified as secure from electronic emission interception. Second, the Tempest-approved equipment must be compatible with the equipment that is not Tempest-approved. The determination of minimum needs is the responsibility of the contracting agency, Maremont Corporation, 55 Comp. Gen. 1362 (1976), 76-2 CPD 181, and Philips has presented no evidence that the determination concerning Tempest approval and compatibility is unreasonable.

Significantly, Philips admits that at the time of the evaluations, its equipment was not Tempest-approved. Additionally, Philips concedes that its equipment is not compatible with the Tempest-approved equipment supplied by Raytheon. In effect, Philips concedes that it does not meet the needs articulated by FEMA.

Under the circumstances, the procurement action is supportable on the basis that Philips' equipment would not meet FEMA's needs. We therefore need not consider the protester's allegations concerning the evaluation of its cost proposal.

The protest is denied.

Comptroller General of the United States