



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Systematics, Inc.

File: B-222559

Date: July 24, 1986

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### DIGEST

Procuring agency's issuance of delivery order for automatic movable storage system to mandatory multiple-award Federal Supply Schedule contractor which offered the lowest cost per linear filing foot and per square storage foot is reasonable because the contractor offered the lowest priced item meeting the government's minimum needs.

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### DECISION

Systematics, Inc. (Systematics), protests the Naval Underwater Systems Center's (NUSC) issuance of delivery order No. N66604-86-F-T044 to Donnegan Systems, Inc., for a mechanized high density mobile storage system. The order was placed against the mandatory multiple-award Federal Supply Schedule (FSS) contract No. GS-00F-76630 of Stacor Corporation (Stacor). Donnegan is the agent of Stacor Corporation. Systematics is the agent of Spacesaver, Inc., which has a similar FSS contract.

We deny the protest.

NUSC originally issued a request for quotation (RFQ) for the requirement on September 17, 1985, and Systematics received the order. However, after a protest from Donnegan, NUSC decided to cancel the order and resolicit because two offerors, including Systematics, were advised during a site visit that they could submit alternative designs using existing shelving. Since the RFQ did not mention this possibility, NUSC determined that award to Systematics was improper because the quoters did not compete on an equal basis. Systematics' protest to our Office against NUSC's termination of its order was dismissed as untimely since it was filed more than 10 days after the basis for protest was known. See Systematics, Inc., B-220390.3, Mar. 6, 1986, 86-1 C.P.D. ¶ 222.

A revised RFQ, including use of existing shelving, was issued on January 9, 1986. Offerors submitted their own designs to fit the available space. Donnegan's proposed system was selected because it was found to better satisfy NUSC's minimum needs at the lowest price.

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Systematics protests that award of this order to Donnegan was improper because Systematics' offered system provided the most storage capacity and was a more cost effective system than Donnegan's. Systematics further alleges that its first quote under the canceled order contained unique engineering and design concepts as well as its price which were revealed to Donnegan as a direct result of Donnegan's protest.

To the extent that Systematics' protest is challenging the propriety of NUSC's decision to terminate the original order, it will not be considered because this was the subject of Systematics' earlier untimely protest.

Systematics also questions NUSC's failure to disclose to it certain information consisting of price and design information deemed competitive sensitive in the agency report on the protest. We cannot say the agency's withholding from Systematics was arbitrary. However, this information was furnished to our Office for our in camera review and fully considered. Washington Health Services, Ltd., B-220295.2, Feb. 13, 1986, 86-1 C.P.D. ¶ 157.

Under Federal Acquisition Regulation (FAR), 48 C.F.R. § 8.405-1 (1985), an agency must place orders against that multiple-award schedule contract which offers the lowest delivered price available for the products which meet the needs of the government. See Information Marketing International, B-216945.2, Sept. 24, 1985, 85-2 C.P.D. ¶ 325. Our, in camera, review of NUSC's evaluation indicates that NUSC compared the quotes and designs of the offerors on the basis of the cost per square foot of the total area of shelf space as well as the cost per linear filing foot. Although the Donnegan system did not provide the most overall linear filing feet or area shelf space, it offered the lowest cost both per linear filing foot and per square foot in storage area. In addition to being the lowest in cost, NUSC reports that the Donnegan system was more suited to its needs than Systematics' proposed system because it has wider, more uniform shelves, which are better suited to the type of materials that NUSC plans to store and provides greater flexibility for arranging the materials.

Systematics argues that the NUSC's evaluation should only have considered linear filing capacity and not square foot capacity. Systematics contends that the less the difference between linear filing feet (actual filing capacity) and square foot capacity, which includes "dead space," the more cost effective the system. Systematics states that it offered the most cost effective system, since it offered more linear feet of filing capacity than Donnegan in the same amount of floor space. Systematics also disputes that its narrower shelves will not best meet NUSC's minimum needs and alleges that NUSC has never stored anything that will not fit on the narrower shelves and does not intend to do so in the future.

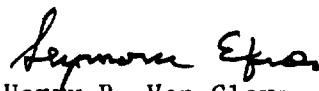
The determination of the minimum needs of an agency and which products on the FSS meet these needs is properly the responsibility of the contracting agency. Moreover, government procurement officials, who are familiar with the conditions under which supplies and equipment have been and will be used, are generally in the best position to know what constitutes their minimum needs. Therefore, our Office will not question an agency's minimum need determination unless it clearly involves bad faith or is not based on substantial evidence. The fact that the protester disagrees with the decision does not render the decision unreasonable. See A.B. Dick Company, B-220144, Nov. 26, 1985, 85-2 C.P.D. ¶ 606.

NUSC reports that the Systematic system's additional linear filing feet were the result of using much narrower (24-inch) shelves, which NUSC did not regard as an advantage. NUSC's determination is that wider (36-inch) shelves better suited its minimum needs. NUSC advises that the original terminated delivery order issued to Systematics was for the wider shelves. Although Systematics questions the agency's statement of its needs, it has not shown that the determination was made in bad faith or is not based on substantial evidence.

Moreover, although the RFQ encouraged offerors to maximize storage capacity in the available area, it did not state that award would be based upon the maximum linear filing capacity. Since Donnegan's price per linear filing foot was lower than Systematics' price, a considerable premium would have to be paid for Systematic's larger linear filing area. FAR § 8.405-1 contemplates award to the lowest cost system meeting government requirements. Although, as Systematics points out, awards based on higher priced systems can be justified in appropriate circumstances, we conclude NUSC's decision to place the order with Donnegan, as the low offeror meeting NUSC's requirements, was justified and reasonable.

Finally, regarding Systematics allegation that NUSC revealed Systematics' unique and original design concepts to Donnegan, NUSC denies this allegation and there is no evidence contradicting this denial. In any case, as noted above, Systematics completely redesigned its system from that proposed on the initial order to increase its linear filing capacity by offering narrower shelves.

The protest is denied.

*for*   
Harry R. Van Cleve  
General Counsel