



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Chi Corporation
File: B-228471
Date: February 22, 1988

DIGEST

Where, in response to agency's announcement of intent to procure front end processers and related hardware under a nonmandatory automatic data processing (ADP) schedule contract, protester proposed equipment that is not compatible with software which agency recently adopted (the procurement of which protester elected to protest before the General Services Board of Contract Appeals during pendency its protest of the hardware procurement before the General Accounting Office), agency's rejection of protester's equipment was not improper.

DECISION

Chi Corporation protests the issuance of a purchase order by the Small Business Administration to Unisys Corporation for automated data processing (ADP) equipment, consisting of seven DCP-15 front end processers and related hardware equipment, under Unisys' ADP schedule contract No. GS00K87AG5860 with the General Services Administration (GSA). Chi contends that the issuance of the purchase order was improper because the agency failed to provide for competitive procurement as required by applicable regulations. We deny the protest.

According to the SBA, during the spring of 1987 the agency determined that it was necessary to upgrade the communications software used in its Unisys/Sperry 1100 mainframe computer. The Unisys CMS 7 software, which the agency has been using, allows the connection of its Unisys 1100 mainframe computer to its front end processers (FEPs) provided by Chi Corporation. The mainframe is linked to the FEPs through an External Specified Index (ESI) channel. The agency explains that the CMS 7 software is now no longer supported by its manufacturer, Unisys Corporation, but has been replaced by Unisys' CMS 1100 software. The SBA says that it previously attempted to use the CMS 1100 software within its above described computer system, but found that

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it did not function properly with an ESI channel. The CMS 1100 software is supported by a new Internally Specified Index (ISI) channel, but the Chi Corporation (front end) processor (CCP) is not fully compatible with the ISI channel.

The agency states that in June 1987 it decided to adopt the CMS 1100 software for use with its mainframe and to replace the ESI channels and the CCPs it was then using with ISI channels and FEPs that would be compatible with CMS 1100. The agency further states that as a result of a market survey, it identified three companies--Potomac Scheduling, Chi Corporation, and Unisys--which would be likely to provide this equipment.

Subsequently, the agency determined that the price range of Potomac Scheduling's equipment exceeded what the SBA would consider acceptable and, following meetings in June and July with Chi representatives concerning its planned acquisition of new FEPs, that Chi would not provide the equipment it needed. Thus, the SBA decided to proceed with the purchase of DCP-15 FEPs and ISI channels from Unisys.

In response to the SBA's synopsis in the Commerce Business Daily (CBD) of its intent to place an order against Unisys' nonmandatory GSA schedule contract, Chi submitted a letter in which it stated that its CCP units are "functionally equivalent" to the FEPs specified in the synopsis and that some of the units to which it referred were "currently . . . installed at the SBA headquarters location . . . [and] have been functional for approximately 7 years."

After reviewing Chi's response to the synopsis, the technical staff advised the contracting officer that Chi's proposal did not satisfy the agency's requirements. On the following day, the SBA delivered the purchase order for the subject ADP equipment to Unisys.

Within a few days after submitting its initial response, the protester (by permission of the agency) submitted another letter explaining how it proposed to meet the agency's needs for FEPs with its CCPs. Stated generally, Chi proposed a system structure using its own software with its CCPs, which Chi maintained would provide "full functional compatibility with standard CMS 1100 applications and . . . the same functional capabilities . . . to access user applications as CMS 1100."

The technical staff again reviewed Chi's response and concluded that it contained no information that Chi had not previously discussed with the agency representatives in the June and July meetings, and that the FEPs Chi proposed to

use were not responsive to the agency's needs since they would not successfully interface with CMS 1100 software in a Unisys 1100 mainframe.

After being informed by the SBA that a purchase order for the FEPs had been placed with Unisys, Chi timely protested the matter to this Office, contending that its CCPs could have met the government's needs. The parties agree that during a series of meetings in June and July 1987, representatives of the SBA and Chi, whose FEPs have been used by the agency for the past 7 years, discussed the capabilities of the Chi FEPs and the possibility of Chi's providing FEPs to meet the agency's present need. The agency states that in those meetings Chi was apprised of the SBA's intention to adopt CMS 1100 and of its need for hardware (including the FEPs) which would be compatible with that software.

Chi alleges that it was placed at a competitive disadvantage, which had the practical effect of restricting the procurement to Unisys, because the SBA in its dealings with Chi and in the CBD synopsis expressed its needs not in functional terms but in terms of the specific Unisys hardware items it proposed to acquire. We believe, however, that the protester knew of the agency's decision to adopt new software and that it sought FEPs that were functionally compatible with that new software. This is indicated by the protester's own attestations that the June and July meetings included discussion of its proposed alternative to the agency's adoption of CMS 1100 and Chi's recommendations that its own system be adopted instead of the Unisys system.

In this connection, we note that Chi maintains that its CCP units will meet the needs of the agency. However, Chi did not propose the use of its CCPs with CMS 1100, but rather proposed the use of its CCPs with its own software as an interface to provide functional capabilities "similar to" those provided by the Unisys CMS 1100.

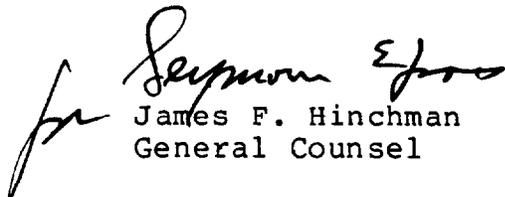
We are not in a position to question SBA's determination to acquire the CMS 1100. Even if we were to assume that Chi's proposed software would meet SBA's needs,^{1/} we understand that when SBA issued a purchase order for the CMS 1100 software approximately 2 weeks after it issued the purchase order for the FEPs, Chi protested the acquisition of the software to the General Services Administration Board of

^{1/} Chi has not rebutted the agency's objection that its software is not equivalent to the CMS 1100 (it does not implement the Message Control Bank interface or provide the GASIF interface) and, therefore, does not provide a level of resiliency comparable to that afforded by CMS 1100.

Contract Appeals (GSBCA). The Board, pursuant to a stipulation of the parties, dismissed Chi's protest, without prejudice, pending our decision on the hardware acquisition. In other words, upon becoming aware of the SBA's acquisition of the software, Chi elected to protest that acquisition to the GSBCA and not our Office.

Since, based on what is before us, the agency has a need for the CMS 1100 software for operation of its mainframe computer and, since the FEPs that Chi offered are not compatible with that software, we do not find improper the agency's rejection of Chi's equipment or its acquisition of FEPs which will meet its needs in light of its new software. See Rocky Mountain Trading Co., B-220713; B-220714; B-220715, Feb. 3, 1986, 86-1 CPD ¶ 119.

The protest is denied. We note, however, that the GSBCA's order of dismissal allows Chi to reinstate its protest of the software acquisition within 10 days of its receipt of this decision. If Chi does so, and if the GSBCA ultimately rules on the merits of the protest, the agency would have to consider the consequences, if any, of that decision on this related acquisition.

 James F. Hinchman
General Counsel