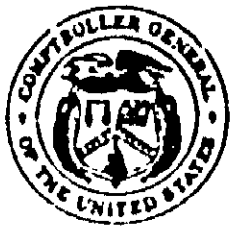


DeGeorge
144600



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Network Systems Corporation

File: B-243531

Date: July 31, 1991

Jim Beattie for the protester,
Harriett J. Halper, Esq., Department of the Navy, for the
agency.
Steven W. DeGeorge, Esq., and John Brosnan, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

In purchase of automatic data processing equipment using
nonmandatory schedule contract, agency properly rejected
response submitted by protester which failed to demonstrate
compliance with a salient requirement.

DECISION

Network Systems Corporation protests the decision of the Naval
Research Laboratory to order certain computer networking
equipment from Bell Atlantic Network Services, Inc., under a
nonmandatory General Services Administration (GSA), automatic
data processing equipment (ADPE) schedule contract (No. GS-
00K-90-AGS-5242). Network Systems contends that the agency
improperly deemed unacceptable its proposal of lower cost
equipment which it submitted in response to a Commerce
Business Daily (CBD) synopsis of the agency's intent to place
the schedule order.

We deny the protest.

The use of GSA's nonmandatory schedule to acquire ADP
resources is governed by the Federal Information Resources
Management Regulation (FIRMR), 41 C.F.R. § 201 et seq. (1990).
The FIRMR permits an agency to place an order against
nonmandatory ADP schedule contracts when certain conditions
are met. One condition is that the agency synopsize in the
CBD its intent to place an order against a nonmandatory
schedule contract. The CBD announcement required before the
agency makes a purchase from a GSA schedule must include
sufficient information to permit the agency to determine from
the responses whether ordering from the GSA schedule or
preparing a solicitation document will meet its needs at the

lowest overall cost, FIRMR, 41 C.F.R. §§ 201-32.206(E), (g). This requires the agency to assure that available alternatives are brought to the agency's attention. See Kacal-Milgo, B-225681, May 5, 1987, 87-1 CPD ¶ 472. Because the CBD synopsis is used to test the market, it need not describe, for example, the evaluation factors to be used by the agency in the detail required in a solicitation. Tricom, Inc., B-220590, Jan. 15, 1986, 86-1 CPD ¶ 47. If evaluation of the responses indicates that a competitive acquisition would be more advantageous than purchase from the schedule, an agency will issue a formal solicitation and invite all vendors, including schedule vendors, to compete. 41 C.F.R. §§ 201-32.206(f)(2)(iv), (g). If, however, the contracting officer concludes that the synopsisized contractor's schedule offering is the lowest overall cost alternative, the agency may place an order against the synopsisized schedule contract. 41 C.F.R. § 201-32.206(g)(2)(i).

The CBD synopsis in this case, was published on November 8, 1990, stating the Navy's intent to place an order with Bell Atlantic for the following equipment: (1) CISCO AGS+ Gateway Servers w/9 Slot Chassis (quantity of 4); (2) FDDI Fiber Optic Transceiver Applique (quantity of 8); (3) CBUS Controller (quantity of four); and (4) FDDI Controller (quantity of eight). The synopsis further provided that vendors interested in competing for the requirement could respond by submitting "published specification sheets supporting general compliance with salient features, and GSA schedule or commercial price lists." Any responses were required to be received by the Navy within 15 days after publication of the synopsis.

Network Systems responded to the CBD synopsis on November 13. At about this same time, the Navy amended its requirements by increasing the quantity of AGS + Gateway Servers w/9 Slot Chassis from four to six, and by adding a requirement for a High Speed 4-port Ethernet Interface. This amendment was published in the CBD on February 21, 1991 and Network Systems responded with a revised submittal on March 7.

The Network Systems response consisted of two alternate proposals based upon slightly different architectural platforms. Each proposal, however, offered the same Model 6449 Bridge-Router in response to the agency's requirement for AGS+ Gateway Servers.^{1/} Both the written description in the Network Systems proposal, and the accompanying technical literature, identified the model 6449 as having a six slot chassis.

^{1/} Despite the different nomenclature, a gateway server and a Bridge-Router appear to be functionally the same.

By letter dated March 22, the contracting officer informed Network Systems that its response to the CBD synopsis had been found technically unacceptable and that the agency therefore intended to place an order for the equipment with Bell Atlantic. Two reasons were stated for the agency's finding of technical unacceptability: (1) failure to meet the requirement to support four FDDI interfaces; and (2) failure to meet the requirement for a process and forward rate for ethernet of 20,000 packets per second.

Network Systems contends that it proposed equipment capable of satisfying the FDDI interface requirements which were logically indicated by the configuration described in the CBD synopsis. In addition, the protester alleges that no vendor's equipment is capable of processing ethernet at 20,000 packets per second and that, therefore, its proposal should not have been rejected on that basis. Accordingly, Network Systems maintains that the Navy's finding of technical unacceptability was improper and that a competitive solicitation should have been issued for fulfillment of the requirements.

The Navy reports that its requirement for four FDDI interfaces is not fulfilled by the protester's response because the model 6449 Bridge-Router which Network Systems proposed includes a six slot chassis, as opposed to the nine slot chassis which was a salient feature specified in the CBD synopsis. The agency explains that the requirement for a nine slot chassis is based upon its desire for the ability to eventually support four FDDI interfaces as its network expands. According to the Navy, the ability to support four FDDI interfaces provides a well-recognized advantage to the user of a network such as being acquired here, and it is for that reason that the agency specified the AGS+ Gateway Server with a nine slot chassis. The Navy reports that based upon its technical analysis, the Model 6449 Bridge-Router proposed by Network Systems can be configured to support a maximum of only two FDDI interfaces which would not meet its requirements.

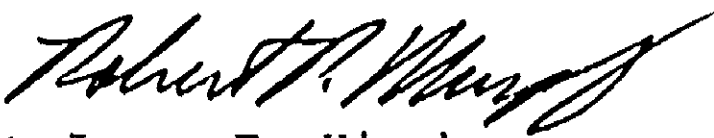
The protester concedes that a single Bridge-Router such as proposed has a six slot chassis, while the specified AGS+ Gateway Server has a nine slot chassis. However, the protester argues that its proposed equipment should be considered compliant when viewed in connection with the particular configuration described in the CBD synopsis. According to the protester, the configuration in the CBD described a total of eight FDDI interfaces. The protester explains that the six slot equipment it proposed can support eight FDDI interfaces. Thus, Network Systems maintains that its response should not have been found technically noncompliant.

The Navy responds that while the initial configuration specified in the CBD includes only eight FDDI interfaces, it requires an expansion capacity in excess of that amount. For that reason, according to the agency, it specified that the gateway controllers each include a nine slot chassis, thus allowing for accommodation of its anticipated expansion requirements.

Based upon the record, we do not believe that the agency acted improperly in finding the protester's response unacceptable. The protester does not question the agency's asserted need for expansion capacity relative to the number of FDDI interfaces. Moreover, the fact that the equipment proposed may support the total number of FDDI interfaces to be initially acquired does not overcome the protester's failure to meet the explicitly identified salient requirement for a nine slot chassis. The protester effectively disregarded this salient requirement and its response was therefore reasonably determined unacceptable. See Berkshire Computer Prods., B-241393, Feb. 11, 1991, 91-1 CPD ¶ 145.

Because we find that the protester's proposal was reasonably rejected for failure to meet the requirement for a nine slot chassis, we need not address the protester's compliance with the requirement for a 20,000 packets per second ethernet forward rate.

The protest is denied.


for James F. Hinchman
General Counsel