

DECISION

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

51049

FILE: B-182248

DATE: September 25, 1975

MATTER OF: North Electric Company

97417

DIGEST:

Request for reconsideration of decision that sole-source procurement was proper is denied since material error of fact or law in decision has not been established.

Reconsideration has been requested regarding our decision North Electric Company, B-182248, March 12, 1975. That decision involved a procurement by the United States Army Electronics Command (ECOM) (for the Air Force) of a RED Analog Telephone Subsystem on a sole-source basis from GTE Sylvania, Incorporated (GTE). North Electric contended that it should have been allowed to compete for that procurement because it had produced similar items under other programs and it believed it could satisfy the ECOM requirement within the time frame and performance standards sought. After a review of the record, it was our opinion that the Air Force's demonstrated need to insure technical acceptability and proper interface within a demanding delivery schedule was a reasonable basis on which to procure sole-source from GTE. Among other factors, we took into account the Air Force position that North's desire to use a AN/TTC-25 switch, as opposed to the AN/TTC-38 required by the Air Force and manufactured and proposed by GTE, would necessitate revisions to several other components in the subsystem and would result in substantial additional cost and delay to the procurement.

As the basis for reconsideration, it is argued that the proposed GTE system is presenting the Air Force with substantial technical difficulties, which must of necessity bear on the Air Force's reasoning that the GTE system could be installed and operative in a shorter time than the North system. Specifically, it is alleged that the GTE system presents interface difficulties involving the use of the AN/TTC-38 switch and also difficulties with the software proposed in that system. Furthermore, it is questioned whether the GTE cost and delivery estimates compare favorably with the corresponding estimates for the proposed North system.

In view of these allegations, this Office requested a supplemental report from the Department of Defense (DOD). On June 17, 1975, DOD replied to the protester's allegations. The contracting officer states in pertinent part as follows:

"1. Contract No. DAAB07-75-C-0361 * * * for the Red Analog Telephone Subsystem was awarded to GTE Sylvania, Inc. on 29 April 1975 in the amount of \$3,112,500.00, which amount has been determined to be fair and reasonable.

"2. Technical difficulties encountered with the interface of GTE Sylvania's proposed system were not substantial. A minor problem existed which involved access to interface information of equipment leased by the Government from a third party (Chesapeake and Potomac Telephone Company (C&P)). It should be noted that this same problem would have existed in connection with a proposal submitted by any contractor other than C&P. Sylvania's interface proposal was predicated on receipt of a particular signal from the leased equipment. After numerous technical discussions and meetings between the Government, GTE Sylvania, and C&P during the period 21 February 1975 to 16 April 1975, the interface requirements were defined sufficiently to permit resolution of the problem. It was determined that the leased equipment would not provide the required signal, and Sylvania submitted a revised interface proposal on 18 April 1975 to provide the signal. All technical problems were resolved at that time.

"3. No difficulties were encountered with the software proposed for use in Sylvania's subsystem."

While North has presented a letter from C&P Telephone Company dated April 1, 1975, to DOD detailing several areas of interface difficulties, it appears that these problems have been remedied by GTE's revised proposal of April 18, 1975. In the absence of evidence from North to the contrary, we are constrained to accept the report in this respect. The question of whether North could in fact provide acceptable cost and delivery estimates was addressed in our original decision, and we remain of the view indicated therein that the GTE proposal was reasonably determined to present DOD with the only acceptable subsystem under DOD's time constraints.

While this Office will reconsider and, if necessary, revise its decisions if based on a material error of fact or law, Nartron Corporation, B-178224, B-179173, November 12, 1974, AMF, Inc., B-179914, July 16, 1974, no such showing has been made in this case. Accordingly, the request for reconsideration must be, and is, denied. However, while we have denied the protester's request for reconsideration, we believe

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the issues raised by North relating to the selection and cost of the AN/TTC-38 switch are appropriate for possible consideration in our ongoing audit activities.


Deputy Comptroller General
of the United States