

DECISION

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

FILE: B-202813.2 DATE: July 7, 1982

MATTER OF: Sperry Univac -- Reconsideration

DIGEST:

Agency statement that it would be unrealistic to expect it to exercise all options within a two-year period, even though the evaluation criteria provided for evaluation on the basis of option exercise by the 24th month, does not mean that the criteria themselves were unrealistic or that a more reasonable basis for evaluation existed.

Sperry Univac requests reconsideration of our decision, Sperry Univac, B-202813, March 22, 1982, 82-1 CPD 264, denying Sperry's protest of the rejection of its low offer and award to the second low offeror, Paradyne Corporation, under request for proposals No. SSA-RFP-80-0253 issued by the Social Security Administration (SSA).

We concluded that the contracting officer properly rejected Sperry's revised best and final offer under this solicitation for telecommunication terminals because it did not conform to the maintenance pricing structure mandated by the solicitation and, further, that SSA was not required to reopen discussions with Sperry because that firm's revised best and final offer deviated significantly from its earlier proposals.

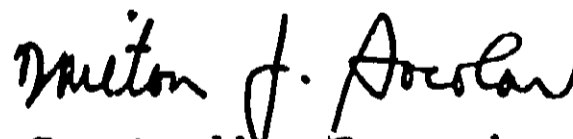
Sperry contends that our decision ignored its argument that the evaluation criteria were defective. This defect in the solicitation, Sperry argues, only came to light in SSA's report on the protest, when SSA stated that the solicitation provision indicating that for evaluation purposes all options would be considered exercised in month 24 was unrealistic and that the agency never intended to

exercise all options by that date. Sperry states that because the evaluation criteria were unrealistic, Paradyne's contract should be terminated and the requirement resolicited under criteria which properly reflect the Government's needs.

The statements in the report, however, do not support the protester's position that the solicitation's evaluation criteria so inaccurately set forth the agency's requirements that any award made under the solicitation must be improper.

The 24-month evaluation period was established in amendment No. 14. That amendment, however, did not alter the agency's right, clearly set forth in the solicitation, to exercise options at various times during the life of the contract. In other words, while the amendment provided for evaluation on the basis of option exercise by the end of the second year, in actuality the agency was not intending, and did not indicate otherwise to offerors, to commit itself to exercising all options by that time. The agency's use of the term "unrealistic," when read in context, meant no more than that. It did not mean that there was a more appropriate evaluation approach or that the approach adopted was unreasonable. In this regard, we note that Sperry and the other offerors submitted offers without complaint under that evaluation provision and have not now suggested a more reasonable evaluation period.

Our decision is affirmed.



Acting Comptroller General
of the United States