



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: LDDS WorldCom

File: B-266257.2; B-266258.2

Date: December 19, 1995

DECISION

LDDS WorldCom supplements its initial protest of a modification to the Defense Commercial Telecommunications Network contract by the Defense Information Systems Agency. In its supplemental filing, LDDS argues that the agency has awarded an option to the existing contract in violation of the regulatory restrictions on the exercise of options.

The protest, as filed with our Office, does not establish a basis for challenging the agency's action and, accordingly, must be dismissed.

The jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556. Our role in resolving bid protests is to ensure that the statutory requirements for full and open competition are met. Brown Assocs. Management Servs., Inc.-Recon., B-235906.3, Mar. 16, 1990, 90-1 CPD ¶ 299.

To achieve this end, our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds of a protest, Section 21.1(c)(4), 60 Fed. Reg. 40,737, 40,740 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.1(c)(4)), and that the grounds stated be legally sufficient. Section 21.1(e), 60 Fed. Reg. supra (to be codified at 4 C.F.R. § 21.1(e)). These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. Robert Wall Edge-Recon., 68 Comp. Gen. 352 (1989), 89-1 CPD ¶ 335.

Here, LDDS has a pending protest claiming that a January 26, 1995, modification to AT&T's existing contract exceeds the scope of the current contract, and could not have been added to that contract without permitting other potential offerors to compete for the services. In the agency report prepared in response to that protest, the agency defended its contract modification by arguing, in part, that the 1982 request for proposals (RFP) that led to this contract contained an option

requirement for services similar to the services that are now the subject of this modification. In response to this argument, LDDS has supplemented its protest to argue that the agency has, in effect, exercised an option in violation of the regulations governing the exercise of options by agencies.

In a motion to dismiss filed with our Office, the agency explains that there was no remaining option to exercise, that it has not exercised an option, and that its mention of the option in its 1982 RFP was intended only as evidence of the original scope of the RFP. As a result, the agency claims the protester's invocation of the Federal Acquisition Regulation's option guidelines are inapplicable here.

We agree. LDDS has a pending challenge to the agency's January 26 modification that will result in a decision by our Office. This supplemental protest, given the fact that there was no option here to exercise, does not establish the likelihood that the agency violated applicable procurement regulations governing the exercise of options. Therefore, we dismiss the supplemental protest without further action. Section 21.5(f), 60 Fed. Reg. supra (to be codified at 4 C.F.R. § 21.5(f)).

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