

DECISION

11705 *Pogony*
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-192139.7

DATE: October 18, 1979

MATTER OF: ITEL Corporation *CNG 01362***DIGEST:**

Evaluation and overall determination of technical adequacy of proposal for ADPE disk subsystems is primarily function of procuring activity's technical experts and determination that proposal is not technically acceptable for three reasons will not be disturbed absent clear showing that each basis for rejection is arbitrary or unreasonable.

DLG 03000 → ITEL Corporation (ITEL) protests the rejection of a portion of its technical proposal under request for proposals (RFP) No. GSC-CDPR-L-00001-N, issued by the Automated Data and Telecommunications Service, General Services Administration (GSA). The RFP requested offers for various types of disk subsystems to be furnished under fixed price requirements contracts for the mandatory use of most Federal agencies for which GSA has exclusive procurement authority for automatic data processing equipment (ADPE).

This matter is also the subject of a suit filed by ITEL in the United States District Court for the District of Columbia, seeking declaratory and injunctive relief. The Court, in ITEL Corporation v. Rowland G. Freeman, III, Administrator, et al., Civil Action No. 79-2054, declined to issue a preliminary injunction, but retained jurisdiction to consider the matter on ITEL's request for permanent relief. The case is for consideration under § 20.10 of our Bid Protest Procedures, 4 C.F.R. Part 20 (1979) because of a request by the Court that our Office proceed with the review of ITEL's protest. Our decision is based on submissions filed with this Office by ITEL and GSA as well as the pleadings and supporting papers submitted to the Court and a transcript of the hearing before the Court on August 16, 1979.

110618
009395
[Protester ALLEGES AGENCY Improperly
Evaluated ~~Proposal~~ Proposal]

Items one through four of the RFP, so far as is relevant here, requested offers for IBM 3350 Direct Access Storage (IBM 3350) or equivalent. The RFP contained certain mandatory specifications (Section F) concerning compatibility of proposed equipment, and required that the equipment conform to published IBM specifications when operating on specified host computers. ITEL offered its Model 7330-12 as the equivalent plug-to-plug compatible disk subsystem to the IBM 3350. In a letter to ITEL, GSA rejected this part of the protester's technical proposal for the following three reasons:

- "1. The ITEL 7330-12 does not provide IBM 3350-A2 and/or -C2 string level controller redundancy concurrently with storage control unit (ITEL 7835) dual port or (IBM 3830-2) string switch capability.
- "2. The number of tracks per cylinder and the number of cylinders per drive do not conform with published specifications for the IBM 3350 drives.
- "3. The ITEL 7330-12 will permit transfer of no more than 362,311 (19,069 x 19) bytes without a head movement (seek). The IBM 3350 drives will permit transfer of up to 572,070 (19,069 x 30) bytes of data without a head movement (seek). Your proposal failed to show that software optimized to the physical characteristics of the IBM 3350 can perform an identical function on the ITEL 7330-12 in the same (or lesser) period of time."

By way of background, the term "plug-compatible peripheral device" refers to a specific class of computer equipment, such as plug-compatible disk drives, which can replace an existing device made by the mainframe or other independent manufacturer.

ITEL argues that GSA improperly evaluated its equipment on an individual machine design (component) basis in contravention of the terms of the RFP. The protester, citing various provisions of the solicitation, contends that the RFP only required that the equipment perform in a manner equal to the IBM 3350 (subsystem compatible equipment). ITEL points to a statement made by GSA when it responded to an offeror's question prior to the receipt of proposals that GSA is "soliciting" on a "subsystem (not component) basis". In further support of its contention, ITEL directs our attention to an Air Force technical report prepared in connection with this matter in which it is stated that what "is really required [by the RFP] is that on a subsystem basis the equipment perform functionally equal to or better than the IBM equipment".

The GSA report submitted in response to this protest, ITEL states, clearly establishes that the three bases of rejection cited by the agency solely concern individual component design, not subsystem equivalency, i.e. design/architecture features rather than equivalent subsystem performance. Because of GSA's alleged improper evaluation on an individual component design basis, ITEL argues that GSA erroneously concluded that its Model 7330-12 "did not meet all the required technical specifications for the IBM 3350 type equipment as specified in the RFP" and was "not equivalent to the IBM 3350".

ITEL asserts that GSA's rejection of its equipment as not "equivalent" has no factual support and represents incorrect conclusions regarding the features and capabilities of its Model 7330-12. In support of its position, ITEL has submitted detailed technical information to the effect that the ITEL Model 7330-12 is completely compatible with IBM software and will thus perform in a manner equal to or better than the IBM 3350. Specifically, ITEL contends that there are at least five documents which directly contradict GSA's determination to reject its equipment and which conclusively demonstrate that its Model 7330-12 is a plug-compatible equivalent of the IBM 3350. These documents are as follows:

- 1) Datapro Research Corporation (an independent commercial research corporation) report entitled All About Plug-Compatible Disk

Drives, dated June 1979, which lists commercially available disk subsystems that can function as plug-compatible replacements for IBM equipment and which lists the ITEL Model 7330-12 as the plug-compatible "replacement" for the IBM 3350.

- 2) Auerbach Publishers Inc. (an independent commercial organization) report on Plug Compatible Disk Systems, dated 1978, which lists the ITEL Model 7330-12 as the "compatible counterpart" to the IBM 3350.
- 3) Department of the Interior Contract No. 14-01-0001-79-C-08, dated October 13, 1978, awarded to ITEL based on Model 7330-12 as "plug compatible" with the IBM 3350 disk drive.
- 4) Contract No. GS-00C-50244, dated January 7, 1977, awarded by the U.S. Army to ITEL based on Model 7330-12 disk drive as "IBM 3350-B2 equivalents".
- 5) ITEL Corporation Fiscal Year 1978-1979 Authorized ADP Schedule Contract No. GS-00C-01575, for the period October 1, 1978 through September 30, 1979, in which ITEL warrants that its Model 7330-12 is "plug-to-plug interchangeable", "compatible in all respects", and "will perform operating functions in a manner equal to or better" than the IBM 3350.

ITEL also alludes to the previously mentioned Air Force technical report which, ITEL maintains, directly contradicts GSA's second basis of rejection and inferentially contradicts the third basis.

Generally, it is not the function of our Office to independently evaluate the technical adequacy of proposals. Westinghouse Electric Corporation, B-189730, March 8, 1978, 78-1 CPD 181; Decision Sciences Corporation, B-182558, March 24, 1975, 75-1 CPD 175. The overall determination of the relative desirability and technical

adequacy of proposals is primarily a function of the procuring agency, which enjoys a reasonable range of discretion in the evaluation of proposals. Struthers Electronics Corporation, B-186004, September 10, 1976, 76-2 CPD 231. Therefore, such determinations will not be disturbed by our Office absent a clear showing that the determination was arbitrary or unreasonable. Littleton Research and Engineering Corp., B-191245, June 30, 1978, 78-1 CPD 466; Charter Medical Corporation, B-186904, October 20, 1976, 76-2 CPD 352.

As we see it, the issue presented is not whether the ITEL Model 7330-12 has generally been considered a plug compatible "equal", "replacement" or "counterpart" for the IBM 3350, which ITEL has attempted to establish with its detailed technical literature. The issue, rather, is whether GSA had a reasonable basis for rejecting ITEL's proposal for its Model 7330-12 as technically unacceptable under the specific terms of this RFP. The protester has presented numerous arguments in support of its contention that each of GSA's three specific bases of rejection is erroneous. While we have considered the entire record, we intend to concentrate upon those matters we believe to be dispositive.

The protester's key contentions are summarized as follows:

- 1) ITEL's disk subsystem does provide string level controller redundancy concurrently with string switch capability. ITEL's "dual-port" feature employed in conjunction with two controllers allows the use of two drives concurrently, resulting in improved subsystem availability while the redundant equipment configuration improves reliability. Nothing in the RFP indicates that ITEL's proposed configuration is not equivalent. In fact, under the RFP's mandatory subsystem for the string switch feature, IBM also requires more than one controller. Further, unlike the comparable IBM configuration, any ITEL drive failure disables only that drive, leaving the rest of the string unaffected.

- 2) The ITEL Model 7330-12 meets the IBM published specifications for tracks per cylinder and cylinders per drive. GSA's confusion arises from its conclusion that the physical number of tracks per cylinder and the physical number of cylinders per drive must coincide with the logical number of tracks per cylinder and the logical number of cylinders per drive. In fact, the ITEL equipment is logically equivalent and the RFP does not require equivalent physical tracks and cylinders.
- 3) ITEL's proposal meets or exceeds all RFP requirements for data access and transfer rate. Since the ITEL equipment is logically equivalent and since ITEL and IBM track formats are the same length, there is an equivalent amount of data that can be transferred "before a head must be changed". Thus, the ITEL equipment is fully compatible with IBM software.

Whether the RFP, as ITEL contends, only required equipment which was subsystem compatible, or, at least in some respects, the requirements were more stringent, all equipment had to meet Section F.1.1.4 of the RFP's mandatory specifications which provides:

"Except as expressly stated herein, replacement or add-on units must be instituted without any application program modifications, and there shall be no degradation in any way of processing capabilities as compared to the counterpart."

The protester's arguments concerning GSA's first (string switching equivalence) and second (logical equivalence) bases of rejection appear to have some merit. However, based on our review of the RFP's technical requirements, we do not believe it necessary to discuss these two grounds in detail since we believe that GSA reasonably concluded that ITEL's proposal failed to meet Section F.1.1.4 of the RFP's mandatory specifications.

As previously mentioned, GSA's third basis of rejection was that the ITEL equipment will transfer no more than 362,311 bytes of data without a head movement while the IBM equipment will transfer 572,070 bytes of data before a head movement is needed. This, according to GSA, causes the ITEL equipment to perform certain functions more slowly than the IBM equipment.

During the Court hearing in connection with ITEL's motion for a preliminary injunction, the Government called as a witness a computer expert from the National Bureau of Standards (NBS). The transcript of the testimony reads as follows at pp. 50-51:

BY MR. RAISLER:

"Q. Do you have an opinion regarding a comparison of the performance of the ITEL 7330-12 as compared to the IBM 3350?

"A. It would seem that in some circumstances they are essentially equivalent. But it would seem there can be circumstances in which the ITEL performance is inferior to that of the IBM devices.

"Q. Could you explain those circumstances?

"A. It's as you characterized in your statement earlier. If there is a circumstance in which the block of information being sought is larger than that which can be accessed in the ITEL device, without moving the heads, which is to say 362,311 bytes, if the quantity of information is larger than that but smaller than the quantity of information which can be accessed in the IBM device without moving the heads, which is to say 572,070 bytes, then the effective rate of transfer rate in the ITEL device falls below that of the IBM device. This could affect system

performance in some way and, therefore, the performance of the ITEL device is not equivalent to that of the IBM device."

He further testified that depending upon the user, such degradation of performance could occur "zero percent of the time" or "100 percent of the time." ITEL's expert, on the other hand, testified that this lack of equivalence pertains only to "multitracking", a "seldom-used thing", primarily used during storage of information. ITEL has also submitted an affidavit from its vice-president for technical development which generally states that the ITEL Model 7330-12 "does meet the solicitation requirements for data transfer and capacity".

In resolving highly technical issues, we have often relied on individuals and organizations having appropriate expertise, including NBS. See 50 Comp. Gen. 788 (1971). We have, therefore, carefully considered the testimony of the NBS computer expert. We also have had the matter considered by experts in our Office, who confirm both the testimony of the NBS expert regarding degradation and the testimony of ITEL's expert to the effect that the degradation could occur in connection with storage. Thus, we have little difficulty in concluding that certain users with legitimate needs, such as those with unusually heavy information storage needs, may suffer actual "degradation * * * of processing capabilities" with the ITEL Model 7330-12 as compared to the IBM 3350. Since Section F.1.1.4 is a mandatory specification which prohibits any such degradation, we therefore are unable to conclude that GSA acted unreasonably in rejecting the ITEL proposal.

Accordingly, the protest is denied.

We are suggesting to the Administrator of General Services, however, that consideration be given in future procurements to the feasibility of separately stating the needs of special users with heavy information storage needs rather than using nationwide standards.

on the basis of requirements of a potentially few users, so that the benefits of additional competition may be attained.

Milton J. Pocolan

For The Comptroller General
of the United States