DECISION

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

FILE: B-196286 DATE: May 12, 1980

MATTER OF: ADP Network Services, Inc.

DIGEST:

1. Agency and incumbent contractor argue that
    merits of protest regarding benchmark should
    not be considered since protester did not
    participate in benchmark and since at least
    one retrial would have been held if required.
    GAO will consider merits of protest because
    (1) neither regulatory guidance nor express
    agency commitment guaranteed any participant
    a second benchmark attempt, (2) competition
    is not maximized by forcing vendor to attempt
    benchmark it cannot complete successfully,
    and (3) protester's participation in benchmark,
    which it believed to be defective, might have
    resulted in subsequent untimely protest.

2. Protester contends that (1) benchmark narrative
    does not fully describe complete functions to
    be performed, (2) system-controlled variables
    tested in benchmark are not set out in manda-
    tory requirements, (3) one runstream is not
    documented having nonincumbent offerors
    quessing how to accomplish it, and (4) con-
    verting relatively large amount of undocu-
    mented proprietary code is undue restrictive
    burden. Contentions are meritorious. Recom-
    mendation is made that appropriate corrective
    action be taken.

3. Protester's objections--to five minor benchmark
    requirements on ground that they provide incum-
    bent contractor undue advantage--are without
    merit, since (1) these items do not prohibit
    protester from competing, (2) there is no
    showing that requirements are in excess of
    agency's minimum needs or unreasonable, and
    (3) there is no showing that incumbent gained
    any advantage through unfair Government action
    or preference.

ADP Network Services, Inc. (ADP), protests the proposed procurement by the Small Business Administration (SBA) of teleprocessing services under the Teleprocessing Services Program's Multiple Award Schedule Contracts.

Under this program, user agencies which have received approval from the General Services Administration (GSA), as SBA has here, may place orders for teleprocessing services against schedule contracts after the user agency (1) evaluates the technical service features of those vendors with schedule contracts, (2) eliminates from consideration those that do not meet its require- ments, and (3) selects the vendor's schedule contract offering the lowest system life cost, price and other factors considered.

The SBA issued a notice of mandatory requirements and ADP responded; SBA notified ADP that all mandatory requirements had been met and advised ADP that a bench- mark would be held. On September 13, 1979, benchmark materials were transmitted to ADP and ADP was advised that its benchmark would be performed on October 5, 1979. On September 24, 1979, SBA and ADP participated in an informational conference concerning the benchmark package and that day ADP filed a protest with the con- tracting officer. On September 28, 1979, the contracting officer advised ADP that benchmarks—would proceed as scheduled. Four days later, ADP protested here.

ADP essentially requests: (1) the elimination of all unnecessary proprietary code from the benchmark; (2) the postponement of 30 days to allow competing vendors to develop functional equivalents for all incumbent vendor proprietary code that cannot be eliminated or documented; (3) elimination of all benchmark requirements that are not mandatory; and (4) permission for vendor personnel to attend the benchmark to assist SBA personnel in case they are unfamiliar with the vendor's system.

In response, SBA contends that it has adhered to GSA guidance for acquiring commercial teleprocessing services and it is not in violation of applicable regulations or decisions. SBA reports that the technical requirements do not include things not in the benchmark and there is nothing in the benchmark which could have

caused ADP to fail, which were not deemed mandatory
requirements. SBA argues that GSA regulations indicate
that if a concern attempts to benchmark and fails, at
least one retrial at a reasonable interval is to be
provided; in the instant case, however, ADP chose not
to avail itself of this GSA requirement. It is SBA's
opinion that its determination to eliminate ADP from
further consideration due to its failure to benchmark
is consistent with our decisions and GSA regulations.

The incumbent contractor, Computer Sciences
Corporation (CSC), notes that GSA guidelines provide
that at least 20 calendar days be allowed for vendors
who have already met the mandatory requirements to
prepare for the benchmark demonstration and the
protester was allowed 23 days; additionally, at least
one retrial is allowed. Applying these principles to
this protest, CSC argues that ADP would not have been
disqualified if it were unable to complete the
demonstration the first time. In CSC's view, ADP has
not established that the SBA requirements are unduly
restrictive and ADP has not shown that SBA was arbitrary
in the listing of its minimal needs. CSC also states
that SBA's actions are reasonable because "ADP would
not have been precluded from competing on a cost
basis, assuming it had met the mandatory requirements,
had it not successfully completed the benchmark."

At the outset, we must reject SBA's and CSC's
contention that ADP's failure to attempt the benchmark
when scheduled forecloses its further participation
in the procurement. First, SBA's and CSC's belief
that ADP or any vendor should have known that it was
entitled to a second attempt to accomplish the benchmark
is not supported. The GSA guidance both rely on for
support, GSA Handbook, Teleprocessing Services Program,
FPMR 101-36, October 1978, states with regard to
benchmarks that:

> "Recommended practices. The following
> practices are to assist selecting activities
> in organizing their benchmark efforts * * *.
> The primary consideration is to achieve a
> benchmark which is representative of the
> selecting activity's actual workload at
> minimum cost. These are suggested practices,

not hard and fast rules. They are designed
to convey concepts, specific details of
application are left to the selecting
activity."

Thus, in view of the nonmandatory nature of GSA's
guidance, absent an express promise of a second benchmark
attempt (Tymshare, Inc., B-192987, August 28, 1979, 79-2
CPD 158), no vendor would be entitled to a second attempt
as a matter of right. Here, the record does not indicate
that SBA expressly guaranteed ADP a second attempt.

Second, in view of the relative cost associated
with benchmarking ($20,000 to $40,000) as compared to the
projected value of the procurement ($400,000), it would
not be reasonable to require a vendor to attempt a bench-
mark which it knew it could not successfully accomplish.
Such a requirement would not tend to maximize competition.

Third, if ADP had objections to the benchmark and
participated without protest, a subsequent protest to our
Office might have been untimely. See, e.g., Comshare, Inc.,
B-192927, December 5, 1978, 78-2 CPD 387 (failure to pro-
test within 10 days of receipt of benchmark package or,
at the very latest, within 10 days of the actual bench-
mark test); Tymshare, Inc., B-190822, September 5, 1978,
78-2 CPD 167 (failure to protest within 10 days of notice
that agency would not change benchmark as requested by
protester); Information International, Inc., B-191013,
May 31, 1978, 78-1 CPD 406 (failure to protest within
10 days of notice of agency's failure to correct benchmark
package as requested by protester).

Accordingly, we will not summarily deny ADP's
protest; instead, we will consider the merits of ADP's
specific objections to the benchmark package.

ADP objects to benchmark request I.A--"[e]xecute the
runstream in Exhibit 1A"--because that runstream is an
undocumented proprietary runstream of the incumbent; it
includes the INFONET (a CSC component) system variable
#V, a capability not required by SBA's notice of mandatory
requirement. Other than SBA's general denial of any
improprieties, the record contains no SBA explanation or
rebuttal. CSC, however, did respond to this objection by

explaining that the runstream is written in standard
General Program Subsystem (GPS) command language, fully
documented by INFONET and is similar to a number of other
widely used command languages. In CSC's view, the nar-
rative included in the benchmark package fully describes
the functions to be performed.

We have reviewed the factual dispute concerning
whether the benchmark narrative fully describes the func-
tions to be performed by Exhibit 1A. We conclude that
the benchmark narrative is not self-documenting and
requires knowledge of how the INFONET system functions
as well as the INFONET system documentation. In partic-
ular, we find the following: (1) line 50 is confusing
because it has no apparent function; and (2) there is
a special feature (lines 51-60, and line 30) in the
benchmark requirement that is not apparent from SBA's
notice of mandatory requirements. Accordingly, this
aspect of ADP's protest has merit.

ADP also objects to the benchmark requirements I.D.3,
"[s]et and internal variable," because internal variables
are not required by SBA's notice, and I.D.5, "[i]nterrupt
the COBOL program and set #V8 to 0610 and begin execution
with a Go statement," because system variables are not
required by SBA's notice and the "Go" statement is INFONET-
specific. ADP notes that the program WP1.CT includes the
INFONET-specific characteristic of setting a system vari-
able (#V0) for testing outside of the program; further,
the Job Code Language (JCL) tests the system variable
#V0 after execution; and system variable #V8 is set by
the JCL prior to executing program E2. In ADP's view,
there is no requirement in the SBA notice for setting
and testing system variables and these characteristics
are incumbent-specific granting INFONET an unfair com-
petitive advantage.

In reply, CSC explains that (1) system variables
such as #V0 and #V8 are common to a number of time-
sharing systems and are not specific to INFONET,
(2) SBA's notice requires user addressable variables
such as the return or condition code, and (3) it is
evident that in order to fulfill the requirement for
"prompting, testing and branching" that the value en-
tered by the user must be placed in an area which is

addressable and that the contents of this area reflect
the value entered--in other words, a variable. CSC
contends that the requirement for variables addressable
at the command level is obvious.

We have reviewed this factual dispute also. In our
view, the requirement for variables addressable at the
command level is not obvious. However, we believe it
is inferred from the "prompting, testing and branching"
requirement which would be meaningless without such
variables. However, there is no express requirement for
the capability to query a system-controlled variable like
"#VO." · That requirement could be met by most major time-
sharing vendors, but not all vendors' systems would permit
the system variable to be read directly as the benchmark
required. Accordingly, we believe that this portion of
the requirements and objectives of this portion of the
benchmark should be better explained by SBA and SBA's
mandatory requirements and benchmark requirements should
be made consistent.

Next, CSC explains that the "Go" statement is used
to resume a program after it has been interrupted, a
concept universal among computer systems, and ADP
should have had no problem with this function since
its command language contains two commands which
accomplish the same function: CONTINUE and REENTER.
In CSC's view, the lack of documentation is immaterial
because the runstream is straightforward and self-
variables are also easily achieved by setting return
codes and by reading the values from a file.

We conclude that the runstream is not self-documenting
because the capabilities and functions of the commands
are not apparent on their face. Initially, offerors
would need the documentation linking file names used in
the runstream to the benchmark programs. In addition,
the runstream requires a program written in proprietary
language and analysis of that program's functions would
require an expert in that language. In that regard, the
benchmark instructions are useless; they lack clarity
and sufficient detail to adequately explain what is
expected. Therefore, this aspect of the benchmark
should be revised.

ADP objects to two other benchmark requirements:
(1) "Exhibit 4E"--on the ground that it is an undocumented
proprietary JCL runstream that tests a return code whereas
only COBOL is required to test a return code by the SBA
notice; and (2) "Exhibit 5B, 5C and 5D"--on the ground
that these programs represent approximately 1,400 lines
of proprietary ALADIN code, requiring conversion of an
entire system in order to benchmark, but the documenta-
tion supplied is insufficient in system logic, flow and
detail, thus not satisfying GSA requirements relative
to converting proprietary code.

In response to (1) above, CSC again notes that the
GPS command language is fully documented and is similar
to command languages implemented by other vendors; also,
the ability to set a return code from either COBOL or
a command is required by the SBA notice and emphasized
in a letter of clarification. Neither SBA nor CSC
specifically responded to (2) above.

Our concern is whether exhibits 4E, 5B, 5C and 5D
constitute an undue burden of converting undocumented
code. These exhibits are all written in proprietary
code; thus, a nonincumbent contractor must start from
scratch when attempting to execute these programs. The
task is much more difficult than conversion from standard
languages and the documentation supplied is minimal when
compared to the task. There is no documentation on the
internal logic of the programs or of their relationship
to one another. There is no sample outputs to use in
the task; further, example reports are not correlated to
exhibits. There should have been complete sample output
and test data for every program used in the benchmark.
Finally, the benchmark is structured so that the greatest
expense is directed toward areas that count the least.
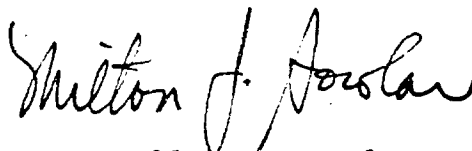Accordingly, we find this aspect of ADP's protest to be
meritorious.

ADP also objects to the following five benchmark
requirements for the primary reason that they provide
the incumbent an undue advantage: (1) "read files from
cassette or floppy disk"--specific hardware interface
requirements are restrictive; (2) "reformat"--this is
a proprietary ALADIN procedure; (3) "number types"--the
incumbent's system does this but the requirement is not
in the SBA notice; (4) "display Data Base name, pages

of overflow"--overflow pages are a feature of the incumbent's ALADIN system, which is not common to other systems; and (5) "blind benchmark"--SBA personnel are not familiar with nonincumbent vendors' equipment to the same degree as incumbent's and any incumbent bias cannot be prevented or detected.

In response, CSC notes that: (1) SBA's notice calls for the ability to access data residing on a data cassette device and ADP's command "Read" performs the function of transferring data from a paper-type device to another file; (2) SBA supplied a complete description of the input file format and a listing of the reformatted output file; the inclusion of the ALADIN language program listing does not prevent the vendor from reformatting the data; and (3) the number of tapes assigned to a user becomes an important item in determining the resources consumed by the user for billing purposes. Neither CSC nor SBA expressly responded to ADP's items (4) and (5) above.

We have carefully examined the arguments regarding these five objections and note at the outset that none of these items would prevent ADP from competing. ADP could satisfy all the requirements from a functional or performance standpoint. While certain system adjustments may be necessary on ADP's part, there is no showing that the SBA requirements are in excess of its minimum needs. Although the incumbent probably had an advantage, there is no showing that CSC obtained that advantage through unfair Government action or preference. Further, we have no basis to conclude that these requirements were unreasonable. See Informatics, Inc., B-190203, March 20, 1978, 78-1 CPD 215, affirmed sub nom., 57 Comp. Gen. 615 (1978), 78-2 CPD 84. Accordingly, this aspect of ADP's protest is denied.

In conclusion, the protest is sustained in part and denied in part. By letter of today, we are forwarding our recommendations for corrective action to the Administrator of SBA.

For the Comptroller General
of the United States