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DECISION



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

FILE: B-194984

DATE: July 16, 1980

MATTER OF: Optimum Systems, Inc.

DIGEST:

Advice to sole remaining offeror during final negotiations for computer services and support contract that existing computer would be replaced by newer computer did not require reopening of competition where introduction of new computer did not alter level of effort required and would not have had a substantial effect on competition.

Optimum Systems, Inc. (OSI), ^{Against} protests the award of a contract by the Department of Energy (DOE) to Electronic Data Systems, Inc. (EDSI), for the operation of the Energy Information Administration's (EIA) computer facility. OSI was the incumbent contractor. For the reasons which follow, the protest is denied.

The facts are not in dispute. On March 28, 1979, the DOE issued a request for proposals (RFP) for facilities management services for the EIA's computer facility. The RFP contemplated a cost-plus-award fee contract on a level-of-effort basis for a broad range of services including computer and data network operations, system and user support programming, user technical assistance, hardware and software analysis and planning, and management services. All of the hardware was to be provided by the Government. As described in the RFP, EIA's system was based on International Business Machines (IBM) model 168 and model 158 processors. Offerors were to predicate their proposals on the furnishing of a level of effort approximating 58 staff years, later modified to 60 staff years, in a defined labor mix.

No offeror was excluded from the competitive range and on July 2 and 3, 1979, the DOE held discussions with all six offerors responding to the RFP. Best and final

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offers were received on July 16, 1979. EDSI was the highest ranked offeror. The costs proposed by OSI and EDSI were approximately equal; EDSI was considered technically substantially more acceptable. During final negotiations with EDSI, the EIA altered its system configuration by substituting IBM model 3033 multiprocessors for its earlier IBM model 168 computers.

In this connection, EIA's source evaluation board for this procurement met and decided that the introduction of the newer central processors into the system did not require a solicitation amendment and a new round of revised proposals. The board based its assessment on the following:

1. The only change to the system is a substitution of a more efficient central processor; the evaluation criteria do not name or specify the central processing unit.
2. The skills required are not significantly different.
3. The procurement is for services only-- and some upgrading in the system should reasonably have been expected.
4. All offerors were required to submit proposals based on the same Government-estimated skill mix and level of effort. There was no readily ascertainable change in the skill mix or level of effort that could be predicted. While it is likely that some manning reduction might be in order for the more efficient [multiprocessor], there are many other associated intangible factors and facility management requirements which make reductions in the proposed facility staffing unlikely.

The contract was awarded to EDSI on December 21, 1979, for the management of EIA's upgraded facility.

OSI challenges the propriety of EIA's award of a contract which OSI contends is different from that contemplated by the RFP. OSI argues that EIA, at the least, should have advised all offerors of the switch to model 3033 processors and requested another round of best and final offers. OSI contends that had EIA done so, OSI would have been able both to lower significantly its cost estimate and increase its evaluated technical score.

In support of this assertion, OSI states that the older system was overloaded and that the change to the new system "results in a critical difference in operation from an overall management viewpoint." From the technical viewpoint OSI argues that had the change been known to offerors before final proposals were submitted, it could have strengthened its technical proposal overall by proposing "different resumes."

Regarding costs, OSI asserts that as a result of the attractiveness of the new equipment, recruiting and advertising costs could have been reduced and lower wages paid to employees. The most significant cost reduction, according to OSI, would have been achieved in overhead because of the "substantial relaxation of management time and attention necessary to keep an overloaded and obsolete system functioning. * * *" Also, OSI states that its proposed base fee could have been reduced because the new equipment would have given OSI greater confidence in achieving a large award fee due to its contract performance. Thus, OSI concludes that its proposed costs could have been reduced by about 15 percent because of the change in equipment.

The DOE responds that the Government is providing all of the equipment necessary for performance of the contract, that both the RFP and the contract are for management services--not equipment, and that offerors should experience no significant cost savings attributable to the use of the newer equipment. We agree with DOE.

The question here is whether the effects on offerors' proposals directly traceable to the introduction of the

3033's would have had a significant impact on the competition as defined in the solicitation. Computek, Inc., 54 Comp. Gen. 1080 (1975), 75-1 CPD 384; Lawrence Johnson & Associates, Inc., B-196442, March 11, 1980, 80-1 CPD 188.

We are not persuaded by OSI's arguments that advice to offerors of the introduction of the newer computers into EIA's system would have had a significant impact on the technical proposals. The level-of-effort nature of the solicitation obligates the successful offeror to provide a specified number of "direct productive manhours," plus or minus 10 percent, regardless of the type of computer on which EIA's system was based. It was this requirement, not changed by the introduction of the 3033's, that was the overwhelming consideration from an offeror's point of view and, absent some change in this requirement, we think the effects on the competition directly traceable to the change to the 3033's would be minimal.

We note, for instance, that the technical evaluation criteria contained in the solicitation stressed capability and experience in software and computer support services, data communications management, and technical support to users, with less emphasis on the offeror's computer center management plan, reporting procedures and personnel, as the basis for the technical competition. Despite OSI's assertions to the contrary, we do not think that the substitution of the newer but substantially similar computers would materially affect an offeror's ability to provide these management and support services.

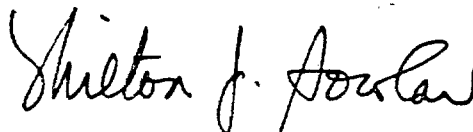
Nor are we persuaded by the assertion that OSI could achieve a sizable cost reduction, amounting to approximately 15 percent of its total cost estimate, as a result of the introduction of the 3033's. We recognize that the greater capability of EIA's newer computers will, or at least should, result in enhanced system performance and may well produce such side effects as a potentially more stable work force and easier satisfaction of performance responsibilities. We consider unreasonable, however, the contention that these incidental effects would produce a result of the

magnitude which OSI suggests, particularly with no change in the expected level-of-effort.

We find additional support for this conclusion in an August 30 letter from OSI to DOE urging that the procurement be reopened. In that letter OSI cited the then pending change in equipment as one of their reasons for reopening the competition. Another reason cited by OSI was "certain internal business considerations," which OSI stated would permit it to offer a substantive overhead reduction. This suggests to us that the savings which OSI now attributes to the introduction of the 3033 may in fact be the result of some other cause. Moreover, we think that to the extent these side effects may occur, they would be experienced by all of the offerors in similar degree and their impact on the competition would be insignificant.

In these circumstances, we think DOE was correct in concluding that the procurement did not have to be reopened to advise all of the offerors of the substitution of the newer computers.

The protest is denied.



Acting Comptroller General
of the United States