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DECISION



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

FILE: B-205242

DATE: May 24, 1982

MATTER OF: Technicolor Graphic Services, Inc.

DIGEST:

Protest that estimates of in-house performance costs were too low is denied where protester has not shown that cost comparison was inaccurate or violated OMB Circular No. A-76.

Technicolor Graphics Service, Inc. (TGS), protests the Department of Agriculture's (DOA) decision to cancel request for proposal (RFP) No. 42-A-SEA-81, for the operations, maintenance, repair and services for facilities equipment, security, safety and supply activities at the National Animal Disease Center (NADC), Ames, Iowa.

TGS was selected for a cost comparison of continued in-house performance versus contracting out. The RFP was canceled after the contracting officer determined that the work could be performed at a lower cost to the Government through continued use of Government personnel rather than by TGS.

TGS timely filed an administrative appeal of DOA's decision. In response to TGS's appeal, DOA found errors in its estimate, and the advantage of in-house performance for the 3-year contract period was reduced from \$636,172, to \$211,171.

The appeal was ultimately denied; however, since the adjusted figures still showed in-house performance was less costly than contracting out, TGS timely filed a protest with our Office, and essentially contends that, despite DOA adjustments as a result of its appeal, the comparison remains inaccurate and is not consistent with Office of Management and Budget (OMB) Circular No. A-76 (A-76) policy and procedures.

We deny the protest.

Initially, we point out with regard to a protest involving a dispute over an agency decision to perform work in-house rather than to contract out the services, we will only consider allegations of a faulty or misleading cost comparison. Midland Maintenance, Inc., B-202977.2, February 22, 1982, 82-1 CPD 150; D-K Associates, B-201503, B-201625, September 10, 1981, 81-2 CPD 208. In the course of our review, we will question only whether mandated procedures were followed and not the procedures themselves, since the procedures are matters of policy within the province of the Executive Branch. D-K Associates, B-201625, September 10, 1981, 81-2 CPD 208.

TGS alleges that the Government has not complied with the requirements of the A-76 Cost Comparison Handbook (CCH) that both the in-house estimate and the contractor's estimate should be based on the same work estimate. TGS specifically contends that the Government did not include the cost of a full-time supervisory facilities engineer (engineer) and three foremen, required in the statement of work (SOW), but only costed these jobs on a part-time basis.

Agriculture concedes that it has not included the cost of a full-time engineer and foremen as a direct cost. However, it states that the Government's cost and associated personnel for fulfilling the scope of work and level of performance is shown as indirect support costs charged to functions which would remain in-house. In other words, because of an inherent advantage to the Government, some of the work done by the engineer and foremen can be done by the Government operation which will remain even if the operation under this RFP was contracted out. Thus, the cost is shown as indirect cost but, in effect, "the services, availability and costs" of an engineer and foremen as required by the SOW have been included in the in-house estimate.

This Office has recognized that the Government may have inherent advantages in organizing its manpower that a contractor cannot achieve in an A-76 exercise, such as using resources outside the contract area to perform some contract functions which the contractor must staff with its own personnel. See D-K Associates, *supra*. However, this does not obviate the need to satisfy the requirement that both the Government and contractor are costed to provide the same work. Here, Agriculture advises that the cost of providing for the functions of an engineer and foremen are included as an indirect cost in the in-house

estimate, and that both in-house and contractor estimate totals contain the cost of the work at issue. TGS has not shown that this is not the case and, therefore, has not shown this approach violates the CCH. See ACMAT Corporation, B-197589, March 18, 1981, 81-1 CPD 206.

We also point out that the use of a core unit, a continued in-house presence, consisting of the NADC's Central Research Unit which performs facilities operations, maintenance, and repair activities within restricted areas, is not prohibited by A-76. The RFP clearly advised offerors that the core unit would continue to perform functions in the same manner as in the past in restricted areas and would be involved in all areas where biological safety is an issue. In Transmittal Memorandum No. 4 to Circular No. A-76, OMB recognized that a "core unit" for research and development facilities was a permissible "method of doing business" and was a "Government function." However, OMB expressed its concern about the size of the core capability and how it affected the cost comparison; in effect, the issue raised by TGS concerning the capability of the core unit to provide supervision and support for the functions to be contracted out. OMB is studying this issue, but has not issued guidance concerning proper use of "core capability" in the A-76 context. Since use of a core unit was permitted under the circular without restriction as to use, we cannot say that DOA violated the circular by creating a core unit for this procurement with the capability to supervise and support the contract functions.

TGS argues that Government boiler plant staffing based on 3.2 man-hour average for service orders is inadequate. The Government's original staffing projection was for two boiler plant operators. The appeal board in response to TGS's appeal agreed, in part, with TGS, and increased staffing by one-half an operator. TGS still questions the adequacy of the staffing to perform the work required including boiler inspection, maintenance, and repair. TGS considers the lack of proper staffing to be a threat to biological security, a stated concern of Agriculture when issuing the RFP. However, DOA reports that, based on its experience, the revised staffing is adequate to cover continuous boiler plant operations and includes overtime for emergencies. We have no basis to object to DOA's determination that its revised staffing for its boiler plant operations are adequate nor has TGS substantiated its allegation that DOA's staffing estimates violate the guidance and are a threat to biological security.