

# DECISION



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

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PL-II  
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FILE: B-218202

DATE: May 23, 1985

MATTER OF: EC Services Company

## DIGEST:

Cancellation of a request for proposals (RFP) issued in accordance with Office of Management and Budget Circular A-76 was justified where agency adjusted its in-house estimate to reflect the scope of work specified in the RFP and the adjusted estimate was lower than any proposal.

EC Services Company protests the cancellation of request for proposals (RFP) No. N0064-84-R-0062 issued by the Department of the Navy for the performance of material-handling equipment maintenance services. The solicitation indicated that proposals were being solicited as part of an Office of Management and Budget Circular A-76 cost comparison. EC Services' proposed price was initially determined to be lower than the government's cost estimate. Government employees filed a timely appeal which was sustained and which resulted in a determination that continuing in-house performance would cost the government less than contracting with EC Services. As a result, the Navy canceled the solicitation. EC Services contends that the Navy's adjustment of its in-house estimate was improper.

We deny the protest.

Initially, we point out that this Office generally does not review an agency decision to perform work in-house rather than to contract for the services. We regard such decisions as matters of policy within the province of the executive branch. Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD ¶ 38. Where an agency, however, uses the procurement system to aid its decision, specifying the circumstances under which a contract will or will not be awarded, we will review an allegation that the agency

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did not follow established cost comparison procedures, as a faulty or misleading cost comparison which would materially affect the decision whether or not to contract out would be abusive of the procurement system. Contract Services Co., Inc., B-208180.2, Sept. 16, 1983, 83-2 CPD ¶ 331. The protester must demonstrate, however, not only a failure to follow established procedures, but also that this failure could have materially affected the outcome of the cost comparison. Serv-Air, Inc.; AVCO, 60 Comp. Gen. 44 (1980), 80-2 CPD ¶ 317.

EC Services first questions the determination by the appeal reviewing official to utilize fiscal year (FY) 1984 cost data in revising the in-house estimate for materials and purchased services. Under in-house operation, the Navy indicates that some maintenance and repair is performed in-house and some repair services are contracted. The Navy's original in-house estimate for both supplies to perform repairs and maintenance and for contracted repair services was based primarily on FY 1983 cost data. The Navy review found that the government estimate based on this cost data did not accurately represent the costs which could be expected during contract performance. Since actual FY 1984 cost data was available, the government estimate was recalculated using that data and the estimate for these items was reduced by \$246,098.

The appeal review found that FY 1983 cost data, utilized in the Navy's original estimate for materials and purchased services, was inaccurate in several respects. First, the record reflects that the Navy changed its method for procuring materials in FY 1984 from a Contractor-Operated Parts Store to purchasing materials using Blanket Purchase Agreements (BPAs) with a number of local vendors. The savings generated by this conversion were originally estimated at 22.5 percent and were determined by comparing a sample of items purchased under the previous system (FY 1983) with like items purchased in the first quarter only of FY 1984. The appeal review found that the sample upon which the comparison was based was not chosen using statistically acceptable sampling techniques and, therefore, did not accurately reflect the savings which would be achieved taking into account complete cost data for FY 1984. Also, it was determined that the FY 1983 cost data included premium transportation charges which were not being added to BPA purchase prices.

In addition, the appeal review found that 15 replacement forklifts were received during FY 1983 and that no adjustment was made to FY 1983 cost data to reflect the lower cost of maintaining the new equipment. Also, it was found that extensive cosmetic and repair work was done during FY 1983 in preparation for a Naval Occupational Safety and Health Inspection Program (NOSHIPS). The reviewing official determined that expenditures increased during FY 1983 to prepare for this inspection and although the dollar amount attributable to this could not be quantified, the appeal review determined that FY 1983 cost data was inaccurate for this reason as well. Lastly, the Navy's original estimate for demountable container maintenance was found inaccurate. The record indicates that the Navy did not assume responsibility for these repairs until January 1, 1984, and the original estimate was based on costs incurred in the first quarter of FY 1984. Based on actual cost data for the entire year, the cost was found to be much lower and the estimate was revised accordingly.

EC Services argues that the reviewing officials decision to utilize FY 1984 costs in revising the in-house estimate for materials and purchased services altered the basis for comparison between EC Services' offer and the in-house estimate. EC Services argues that its offer was based in part on FY 1983 "usage" data for materials and supplies which was provided in the solicitation. EC Services contends that during FY 1984 the amount of materials and supplies purchased decreased significantly over FY 1983 and therefore that FY 1984 costs are based on different usage requirements. EC Services indicates that the Navy has recognized that usage in FY 1983 was greatly exaggerated due to the NOSHIPS inspection and, as a result, EC Service argues that the Navy has acknowledged that FY 1984 cost data is based upon a significant decrease in material usage. Accordingly, EC Services contends that cost comparison was not based on the same scope of work.

We have held that contractors and the government should compete on the basis of the same scope of work. Joule Maintenance Corp., B-208684, Sept. 16, 1983, 83-2 CPD ¶ 333. However, we have also held that an agency may adjust its in-house estimate to correct the possibility that the government estimate was not based on the scope of work specified. Satellite Services, Inc., B-207180, Nov. 24, 1982, 82-2 CPD ¶ 474. We have recognized that the government estimate provides a standard against which

bids and proposals are evaluated and there is no question that the government has the authority to correct its estimate. Trend Western Technical Corporation, B-212410.2, Dec. 27, 1983, 84-1 CPD ¶ 25.

Based on the record, we find no basis to question the determination by the Navy reviewing official that FY 1983 costs did not accurately represent the costs which would be incurred by the government to meet the requirements set forth in the performance work statement (PWS). The original in-house estimate, using FY 1983 data, was found deficient because it included costs and material usage that should not have been included and which overstated the in-house estimate. In addition, the appeal review found that the estimate of the savings generated by the new procurement system was inaccurate. While EC Services argues that the Navy should be required to use this data, the Navy has provided a satisfactory basis which, in our view, demonstrates that FY 1983 cost data would not accurately reflect the in-house costs incurred under the PWS.

Furthermore, we are unable to agree with the protester that the Navy's use of FY 1984 cost data altered the basis for comparison between EC Services' proposal and the in-house estimate. While material usage may have decreased in FY 1984, there is no evidence that the decrease occurred in areas in which historical data was provided to the protester or that the decrease in usage was for materials which would be required under the PWS. In this regard, we note that the Navy states that the costs incurred for the NOSHIPS inspection would not have been done under the PWS and there is no evidence that any of the material purchased for this maintenance was reflected in the data allegedly relied upon by the protester in the preparation of its proposal.

The Navy determined that FY 1984 costs more accurately reflected the in-house cost for materials and purchased services which would be required in order to meet the requirement set forth in the PWS. We find no evidence that these costs represent a scope of work which differs from that utilized by EC Services in preparing its proposal or that the costs reflect a substantial deviation from the historical data which all offerors were provided. In view of the deficiencies found in the FY 1983 cost data, we conclude that the Navy was justified in using this information to adjust the original in-house estimate.

EC Services raises the additional arguments that: (1) the in-house estimate must be increased to include the cost to purchase and install, rather than lease, liquid propane gas (LPG) tanks and (2) the government should not be permitted to reduce its electricity cost estimate by \$4,067. However, we need not address the firm's concern regarding these two items. The difference between EC Services' adjusted contract price and the in-house estimate was found to be \$64,502. EC Services acknowledges that requiring the Navy to purchase the LPG tanks would add approximately \$50,000 to the in-house estimate and, consequently, even if we were to conclude that these two items should be adjusted in EC Services' favor, the cost comparison's ultimate result favoring in-house performance would be unchanged. Day & Zimmerman, Inc., B-212017, Apr. 3, 1984, 84-1 CPD ¶ 377.

The protest is denied.

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