

**DECISION**

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

Spangenberg  
PLI

**FILE:** B-221280

**DATE:** April 1, 1986

**MATTER OF:** CompuServe Incorporated

**DIGEST:**

Where agency does not properly identify its actual requirements when it requests prices from GSA Teleprocessing Services Program, Multiple Award Schedule Contract (MASC) vendors for an electronic mail system and prices were therefore not evaluated based on government's actual requirements, award may not have been made to vendor offering lowest overall cost to government.

CompuServe Incorporated protests the award of an order to ITT Dialcom, Inc., by the Department of Health & Human Services (HHS) for an automated data processing departmental electronic mailbox system for a 5-year period. This order was placed under a General Services Administration (GSA) Teleprocessing Services Program (TSP) Multiple Award Schedule Contract (MASC).

We sustain the protest. CompuServe's price for disc storage appears not to have been evaluated based upon the government's actual requirements because HHS did not properly identify its requirements when it solicited prices. We recommend that this and certain other aspects of the price evaluation be reconsidered based upon the questions raised about the evaluation described below.

Under the TSP MASC program, GSA enters into contracts with qualified vendors. Each vendor's detailed price matrix is set out in its MASC, and forms a basis for agency decisions as to which vendor's system will result in the lowest cost to the government. GSA has promulgated regulations and issued implementing procedures governing the selection by using agencies of the appropriate vendor's MASC. See Federal Information Resources Management Regulation, Temporary Regulation No. 1, 41 C.F.R. § 201-4.1209 (1984); GSA Teleprocessing Services Program Handbook (Oct. 1981).

034971 / 129481

30982

Pursuant to these procedures, HHS provided all qualified MASC contractors with a statement of needs and a cost model in the form of a questionnaire soliciting prices on a monthly basis for the various anticipated items of service. The prices to be submitted by the contractors were required to be only those included in the solicited vendors' MASC's; no variances from these prices are authorized unless contract modifications to the MASC are agreed to by GSA. See generally Computer Sciences Corporation, 57 Comp. Gen. 627 (1978), 78-2 C.P.D. ¶ 85.

CompuServe and ITT Dialcom were the only vendors responding to the HHS solicitation. The total costs proposed and evaluated by HHS for the 5-year period were:

ITT Dialcom	\$1,466,710.40
CompuServe	\$2,173,488.37

ITT Dialcom was selected as the low priced vendor and an order was placed against its MASC on September 30, 1985.

In its October 11, 1985, initial protest, CompuServe alleges that ITT Dialcom's prices were not properly evaluated in three respects: (1) HHS wrongfully considered ITT Dialcom's offered prompt-payment discount; (2) ITT Dialcom's quoted communications costs were understated and should have been evaluated higher by HHS; and (3) ITT Dialcom's quote of zero dollars for on-line disc storage was improperly accepted by HHS. CompuServe supplemented these grounds of protest on November 19, 1985, with further details. Finally, in response to the agency report on the protest, CompuServe protested that it was not treated equitably by HHS in negotiations since it did not have an opportunity to quote on HHS' actual disc storage requirements.

HHS contends that CompuServe's protest should be dismissed because CompuServe did not provide HHS with a copy of its initial protest within 1 day of filing at our Office and only provided the full details in its protest in its November 19, 1985, supplementary comments. In addition, HHS claims that CompuServe's piecemeal presentation is prejudicial to HHS ascertaining the facts when they could be most accurately determined, and therefore the protest should be dismissed as untimely.

We have no record of receiving CompuServe's October 11, 1985, protest on that date. However, CompuServe has provided sufficient evidence that our Office received the protest on that date. Since that protest letter contains all the essential elements, we will consider the protest timely received on October 11, 1985. See Julie Research Laboratories, B-219363, et al., July 3, 1985, 85-2 C.P.D. ¶ 126.

We first became aware of CompuServe's protest when we received its November 19, 1985, filing. HHS was given 25 working days to submit its report on the protest from the date that CompuServe filed its November 19, 1985, supplementary comments, and HHS met this deadline. Under the circumstances we decline to dismiss CompuServe's protest for its failure to provide in a timely manner the contracting officer with a copy of its October 11 protest. See Environmental Systems Research Institute, B-219797, Oct. 23, 1985, 85-2 C.P.D. ¶ 449.

In its report on the protest, HHS agrees that it erred in evaluating and accepting ITT Dialcom's prompt-payment discount. HHS states that \$16,246.20 should be added to ITT Dialcom's price.

HHS also admits that it erred in accepting ITT Dialcom's proposed communications costs. HHS explains that the cost model in the solicitation document led to the false assumption that all messages on the nationwide electronic mail system originated in Washington, D.C., and that this was the price which ITT Dialcom proposed. Under its MASC, ITT Dialcom charges \$1 per connection hour for Washington, D.C., originated messages and \$6 per connection hour for messages outside the Washington, D.C., area. Because of the protest, HHS reexamined its historical data and determined that 66 percent of all messages originated outside the Washington, D.C. area and 34 percent originated in Washington, D.C. Using this assumption in its cost model, HHS calculates that an additional \$547,529.40 should be added to ITT Dialcom's price.

CompuServe contended in its protest that an even higher dollar amount should be added to ITT Dialcom's price. However, this higher amount is based on the false assumption that all calls would originate outside the Washington, D.C. area.

Taking into account the foregoing adjustments, the evaluated proposal prices are:

ITT Dialcom	\$2,030,486.00
CompuServe	\$2,173,488.37

This leaves for consideration the evaluation of the proposed disc storage costs. In the cost model, HHS asked for prices on a monthly basis for storage as follows:

"20. What would be your charge to store 425,000,000 total characters in 2,000 mailboxes? . . .

"21. What would be your charge to delete 142,500,000 total characters from 2,000 mailboxes? . . ."

ITT Dialcom's and CompuServe's MASC's vary significantly in their treatment of storage costs and they therefore responded differently to these questions. ITT Dialcom quoted zero dollars for questions Nos. 20 and 21 because its MASC provides:

"Electronic Mail: 60 days storage of Unread Electronic Mail messages at no charge. 30 days storage of Unfiled, Read, Electronic Mail messages at no charge."

CompuServe's MASC storage prices vary based upon the number of storage units per month. In this case, CompuServe quoted \$11,655 per month in response to question No. 20 based upon a 425,000,000 character quantity (\$699,300 for the 5 year contract period) and zero dollars for question No. 21. HHS used ITT Dialcom's and CompuServe's quotes for evaluation purposes.

HHS states that since the system being procured is for electronic mail communication with only limited data storage capability, its operating policy will be that read messages will be deleted within 30 days. HHS concedes that it is reasonable to believe some small amount of storage may exceed these time limitations and that some charges will be paid for storage. However, HHS asserts that it is impossible to determine what that amount will be. Under the

circumstances, HHS states that it is reasonable to rely upon its policy and intent to timely delete messages from the system and to accept, for price evaluation purposes, ITT Dialcom's quote of zero dollars.

HHS asserts that CompuServe has no comparable policy regarding free storage. However, CompuServe states, and our review confirms, that its MASC does provide for 3 days "free storage for stored messages, filed messages and data files."

CompuServe alleges that questions 20 and 21, which are supposed to identify HHS' needs, indicate that storage will increase at a rate of almost 300,000,000 characters per month. It further alleges that it follows that significant storage costs beyond 30 days are contemplated to be incurred and ITT Dialcom should have been evaluated accordingly.

HHS concedes that the questions were not properly phrased, and that the storage and deletion estimates should have been the same. HHS states that its policy of erasing read messages on the electronic mail system before 30 days pass and its historical experience with CompuServe, the incumbent contractor, demonstrate that no such increase in storage will occur or is contemplated.

The HHS policy on promptly deleting read messages from the system was not mentioned in the HHS cost model requesting price information nor communicated to CompuServe until HHS' report on the protest. CompuServe alleges that if it had been apprised of HHS' intent, policy and interpretation of the disc storage requirements, it could have reduced its quoted price by a total of \$461,538, thereby making it the low MASC contractor.

The selection of a contractor must be based upon the government's actual requirements. HHS concedes that the cost model questions, which should reflect these actual requirements, were not properly phrased. Moreover, the HHS policy to promptly delete messages was not communicated to the MASC contractors. The cost model questions as phrased, without mention of the HHS policy on promptly deleting messages, do not fully disclose the government's actual needs. Indeed, the cost model may well have led to a misleading evaluation of CompuServe's price since the cost model implies a continuing storage requirement inconsistent with a policy of promptly deleting messages to save system

storage space and costs. If CompuServe's MASC prices and its provision for 3 days free storage are evaluated in light of HHS' actual requirements, including HHS' policy on deleting messages from the system, CompuServe's price for storage could be significantly lower than its quoted price. Indeed, given the closeness of the competition, CompuServe's price based on HHS' actual requirements could be the lowest cost to the government.

Therefore, we sustain CompuServe's protest. We are recommending that HHS define its actual requirements regarding disc storage and evaluate CompuServe's prices on these requirements consistent with its MASC. Further, in view of the closeness of the competition and HHS' admission that it is reasonable to assume some storage costs will be incurred on ITT Dialcom's system, ITT Dialcom's storage costs should be reevaluated to ascertain the estimated storage costs that would be incurred with its system. In this regard, since HHS has had some months experience with ITT Dialcom's electronic mail system, a review of its current HHS contract vouchers may form a basis for estimating storage costs.

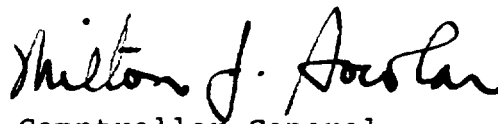
In addition, we would expect that certain other matters will be resolved in the reevaluation. These matters involve HHS' statement that CompuServe's proposal was understated with relation to its MASC in two respects, and that its cost should have been evaluated as \$2,575,010.94.

One of the alleged errors is that CompuServe understated its own storage costs by \$230,700 in that it quoted a monthly price significantly less than that listed in the MASC for these services. CompuServe responds that the HHS reevaluation failed to consider that CompuServe's price included an applicable volume discount on storage costs that is contained in schedule "M" of its MASC. We have confirmed that there is a volume discount for disc storage in schedule "M" of CompuServe's MASC, but have been unable to ascertain that CompuServe's quote properly reflected the appropriate discount figure.

HHS also states that CompuServe's quote reflected the wrong applicable discount on the overall cost of the system per month. That is, CompuServe quoted a 34-percent discount while HHS asserts that schedule "M" of CompuServe's MASC

indicates only a 30-percent discount was applicable. CompuServe responds that the 34-percent discount is a "net discount" authorized and stated in section "D" of the MASC and is different from the discount figure contained in schedule "M" of its MASC. Both this matter and the volume discount on storage should be resolved by HHS in the reevaluation.

Protest sustained.

A handwritten signature in black ink, reading "Milton J. Auster". The signature is written in a cursive, flowing style.

Acting Comptroller General  
of the United States