



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Department of the Air Force; GTE Telecom Marketing
Corporation--Request for Reconsideration
File: B-229059.2, B-229059.3

Date: April 12, 1988

DIGEST

1. Requests for reconsideration of merits of prior decision are denied because requests do not show that initial decision contained errors of fact or of law or that information not previously considered exists that would warrant its reversal or modification.

2. Recommendation in initial decision that protester's proposal be reevaluated as if protester offered no separate price for mistaken subline item is modified to state that price negotiations be reopened between protester and initial awardee.

DECISION

The Department of the Air Force and GTE Telecom Marketing Corporation request reconsideration of our decision in Centel Business Systems, B-229059, Dec. 24, 1987, 67 Comp. Gen. ___, 87-2 CPD ¶ 629, in which we sustained Centel's protest of the Air Force's award of a contract to GTE under request for proposals (RFP) No. F11624-87-R-0016 for a 120-month lease (with an option to purchase) of a telecommunications system at Grissom Air Force Base. We deny the requests to reconsider the merits of our decision but we modify our recommendation.

The solicitation included line items for a basic telecommunications system consisting of installation and monthly maintenance and expanded services consisting of additional equipment and services not provided in the first year under the basic system. In response to RFP amendment 0003, which added under the expanded services three subline items (SLINs) for the repair of accidentally cut buried telephone cables, Centel submitted revised price pages which included a unit price of \$2.90 and an extended price of

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\$58,000 (\$2.90 x 20,000 estimated quantity) on all three SLINs. Since one of the amended SLINs, 0014AH, for maintenance of repaired cable cuts, was a recurring monthly charge, Centel's entry in that SLIN added \$58,000 for every month remaining in the contract after a cut cable was repaired. For evaluation purposes, Centel's entry in SLIN 0014AH increased its total price by \$3,479,365 for the projected life of the system. Centel protested that its entry of \$2.90 in SLIN 0014AH was an obvious mistake that contracting officials should have noticed and pointed out so the firm could correct the mistake in discussions. The protester argued that it had intended to offer "NSP" or not separately priced for maintenance of cut cables and \$2.90 for the other two new SLINs in amendment 0003 but a computer operator erroneously inserted \$2.90 in all three SLINs.

Although the Air Force acknowledged that Centel's insertion of \$2.90 for cable cut maintenance must have been an error, the agency argued in its report on the protest that because of the complex nature of the RFP's pricing schedule, which provided for the insertion of 5,000 prices, it had no reason to believe prior to award that Centel's response to amendment 0003 and a subsequent best and final offer (BAFO) contained errors.

We sustained Centel's protest based on our finding that a clear discrepancy existed in the firm's pricing for cut cable maintenance which should have led the Air Force to suspect an error in Centel's response to the amendment and the subsequent BAFO. We stated that the agency missed the error because it failed to comprehend the impact of the solicitation's evaluation scheme on the \$2.90 unit price inserted by Centel for cut cable maintenance and because it failed to analyze the BAFO prices on any basis other than a "bottom line" determination as to which firm offered the lowest overall prices. We concluded that, in the absence of error, it was highly unlikely that Centel would have offered a separate price for cut cable maintenance. Thus, we recommended that Centel's offer be evaluated as if it did not offer a separate price for cut cable maintenance and if under those circumstances the firm's proposal is evaluated as low, the GTE contract should be terminated.

In their reconsideration requests, the Air Force and GTE generally argue that because of the complex nature of the solicitation's pricing schedule contracting officials had no reason to know before award that Centel's response to amendment 0003 and its BAFO contained errors. In this respect, they maintain that the error could not be detected without the use of a complex computer program to analyze Centel's total price. Thus, they contend that the contracting officer, in evaluating Centel's proposal, did

not have either actual or constructive notice of the alleged mistake and that our decision placed a burden on contracting officials that is unreasonable and unprecedented. Finally, GTE and the Air Force maintain that the remedy recommended in our decision was inappropriate.

The established standard for reconsideration is that a requesting party must show that our prior decision contains either errors of fact or law or information not previously considered that warrants reversal or modification of the decision. See Bid Protest Regulations, 4 C.F.R. § 21.12(a) (1987); I.T.S. Corp.--Request for Reconsideration, B-228919.2, Feb. 2, 1988, 88-1 CPD ¶ 101. Repetition of arguments made during the original protest or mere disagreement with our decision does not meet this standard. Id.

After careful review of the record and the reconsideration requests, we conclude that GTE and the Air Force have, in essence, repeated arguments made in the submissions filed under the initial protest. Although we did not specifically address every contention raised by the interested party, GTE, in those submissions, we carefully considered all the arguments in reaching our decision. We think that no useful purpose would be served by a point-by-point rebuttal of those arguments.^{1/} Further, although it is clear that both the Air Force and GTE disagree with our decision, we do not find that their arguments reveal a significant legal or factual error in the decision. Thus, we decline to reconsider the merits of our initial decision. See Systems Research and Applications Corp.--Reconsideration, B-225574.3, June 23, 1987, 87-1 CPD ¶ 620.

The Air Force and GTE also request that we modify the remedy in our decision. They argue that since Centel did not submit work papers or other relevant documents to show that it intended to insert "NSP" as a price in SLIN 0014AH, we should not have recommended that the Air Force evaluate the firm's proposal on that basis. GTE also argues that it "has incurred substantial start-up and standby costs which are allocable to this contract and must be reimbursed." Thus, GTE maintains that because of these costs it would not be in the government's best interests to terminate the contract and reaward to Centel.

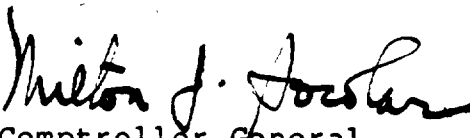
Our initial recommendation was based on the conclusion that Centel did not intend to submit a unit price for cable cut maintenance since, as we explained, even an extremely low unit price, when extended, would dwarf Centel's \$116,000

^{1/} We did respond to all the arguments raised by the Air Force.

total charge for cable repair. We also noted that none of the other offerors submitted a separate price for the maintenance of cut cable. On further reflection we now conclude that it is plausible that the firm could have intended to offer a fractional amount (i.e. \$.001) for maintenance of cut cables. Such an amount, when extended, could have resulted in a price for cut cable maintenance significantly less than the firm's evaluated price of \$3,479,365, while still making Centel's total price higher than GTE's.

Thus, we believe our original recommendation was inappropriate and we now recommend that the Air Force reopen price negotiations with Centel and GTE. Although to reopen negotiations at this juncture could create an auction situation, in our view, the importance of correcting the error through further negotiations overrides any harmful effect on the integrity of the competitive procurement system. American Management Systems, Inc., B-215283, Aug. 20, 1984, 84-2 CPD ¶ 199. If Centel's proposal is evaluated as low, the Air Force should terminate the existing contract for the convenience of the government and make award to Centel if it is otherwise eligible for award.^{2/}

Accordingly, we deny both requests to reconsider the merits of our initial decision but we modify the remedy.

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^{2/} Based on the current record, we do not agree with GTE's contention that termination of its contract would not be in the government's best interests because of costs it has incurred under the contract. Since the protest was filed on September 4, within 10 days of the August 26 award, in accordance with 31 U.S.C. § 3553(d)(1) (Supp. III 1985), performance of the contract was suspended. Although GTE says that it incurred unspecified costs under the contract, the Air Force provides no support for this contention and, in fact, does not argue that termination would be improper because of costs incurred by GTE.