

**DECISION**

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

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95284

FILE: B-180279

DATE: July 3, 1974

MATTER OF: Singer Business Machines

**DIGEST:** Although agency had urgent need for ADPE compatible with existing system, GAO is not convinced that RFP which allowed only two day period for proposal submission was justified in view of requirement for competition to maximum practical extent. However, since it does not appear that circumstances would have permitted extension of proposal submission period sufficient to enable protester to qualify its equipment and since some equipment has already been delivered, awards should not be disturbed.

On December 11, 1973, request for proposals (RFP) No. CDPA-74-15, was issued by the General Services Administration (GSA) pursuant to the authority of 41 U.S.C. 252(c)(2) and (10), which permit negotiation where the public exigency will not permit the delay incident to advertising and where it is impracticable to secure competition, respectively. The subject RFP called for proposals by December 13, 1973, for certain types of automatic data processing equipment (ADPE), and associated communication equipment, which, when fully integrated, would constitute data entry terminal systems to be installed in each of GSA's ten regional offices and in GSA's Central Office. The RFP provided that prospective offerors must furnish certification prior to award that all of the equipment offered is compatible with equipment supplied under GSA's National Teleprocessing Services Contract (NTSC) with the Computer Sciences Corporation (CSC). The NTSC is a mandatory source of supply for Government agencies requiring timesharing services. These services are provided from a commercially available nationwide teleprocessing network operated by CSC which is known as the Infonet system. The equipment was described in the RFP by identifying three functionally equivalent configurations of equipment which could meet the Government's needs. The RFP reserved to GSA the right to award to multiple vendors to secure the required configuration. Eight firms were solicited and five submitted proposals by the December 13, 1973, closing date. By letter of that date, Singer informed this Office

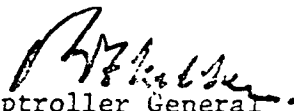
and GSA of its wish to participate in the subject procurement and requested an extension of the closing date. It is Singer's position that the RFP did not allow it adequate time for the preparation of a proposal for equipment with the required Infonet compatibility. Singer argues that had it been given the same preparation time as those firms solicited, it could have offered compatible equipment that would have met GSA's requirements and would have enabled the Government to realize the lowest "cost/performance factor."

Based on a determination dated December 20, 1973, that the items to be procured were urgently needed and that delivery and performance would be unduly delayed by failure to make award promptly, awards under the subject RFP were made to four of the offerors notwithstanding the pending protest. Negotiations had been conducted with these offerors prior to the awards.

It is GSA's position that the short time allowed for preparation of proposals and its refusal to extend the closing date as requested by Singer were necessitated by the urgency of the procurement. The agency asserts that Section 11 of the Public Buildings Act of 1972, Public Law 92-313, 86 Stat. 219, approved on June 6, 1972, established a Federal Buildings Fund to finance real property management and related activities to be operational no later than July 1, 1974.

In order to implement this legislation the GSA Office of Finance entered into a contract with the System Development Corporation (SDC) for technical assistance and contractor support to develop an accounting system for the Federal Buildings Fund. It is reported that there were certain performance delays encountered during the administration of the SDC contract, including the late submission of an Equipment Requirements Report by SDC. According to the administrative report it was not until November 6, 1973, that SDC advised the Office of Finance that identification of the terminals to be procured, by type and manufacture, had to be accomplished by December 19, 1973, in order to attain a system operational date of July 1, 1974. It was further specified that a minimum of two terminal systems should be acquired by January 2, 1974. Early delivery of these two systems was necessitated by the need to have actual use of the equipment during the development, testing and training phase of the SDC contract. Although the remainder of the equipment was not scheduled for delivery until April, SDC advised the agency that identification of the type and manufacture of all the equipment had to be accomplished by December 19, 1973, in order to attain the systems operational date of July 1.

The Federal Procurement Regulations (FPR) require that negotiated procurements be conducted on a competitive basis to the maximum practical extent. FPR 1-3.101(d). Whether a particular procurement is conducted in a manner unduly restrictive of competition depends upon the facts and circumstances surrounding the procurement in question. Except under the most extreme circumstances it is difficult to reconcile a 2-day period for proposal submission with the requirement that competition be fostered to the maximum practical extent. GSA insists that the above-mentioned time constraints and the need for compatibility with the Infonet system would not permit a longer period for proposal submission. Although GSA's explanation appears to present sufficient justification for a relatively short submission period, we are unconvinced that the extremely short submission period employed in this case was justified. However, since it does not appear that the circumstances would have permitted an extension of the submission period sufficient to enable Singer to qualify its equipment and since some of the equipment has already been delivered, we do not believe the awards should be disturbed.

  
Deputy Comptroller General  
of the United States