117348 20622 Weiskopf

DECISION

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

FILE: B-198910.2 DATE: January 26, 1982

MATTER OF: Amdahl Corporation - Reconsideration

DIGEST:

GAO modifies prior decision holding that the Environmental Protection Agency (EPA) relied upon an inadequate market survey -- a review of another agency's procurement for a system which would not necessarily meet EPA's requirement -- to justify the purchase of computer, since the General Services Administration (GSA) now states it reviewed the two agencies' requirements and authorized EPA to rely on the other agency's procurement. This fact does not remove the deficiency but transfers responsibility for it to GSA, since EPA was entitled to rely on GSA's authorization. GSA should have known that a review of the other agency's procurement very likely would not suffice as a representative market test.

The Environmental Protection Agency (EPA) requests that we reconsider our decision Amdahl Corporation, B-198910, B-199942, April 27, 1981, 81-1 CPD 322, which sustained Amdahl Corporation's protest of EPA's sole-source purchase of an excess Government-leased multiprocessor computer from International Business Machines Corporation (IBM). We found that the purchase followed an inadequate market survey of possible alternatives. EPA asserts that the survey and subsequent sole-source purchase conformed with the General Services Administration's (GSA) instructions in its delegation of procurement authority (DPA) to EPA. We remain of the view, however, that the market survey did not adequately reflect the possible alternatives to a sole-source purchase.

EPA's market survey consisted of a review of proposals submitted to the Department of Energy (DOE) in response to a DOE request for proposals to supply a similar computer system. EPA determined that compared

to those offers, the excess leased computer was the least costly approach to meet EPA's needs. We ruled that the market survey was defective because DOE's requirement differed significantly from EPA's with respect to system configuration.

The difference stemmed from EPA's purported requirement for either a multiprocessor or two loosely coupled uniprocessors. A multiprocessor is a computer system comprised of two central processing units in a tightly coupled configuration in which both units share a single operating system permitting access to all the memory storage from either unit; in a loosely coupled system (a dual processor), each central processing unit requires its own operating program and only has access to the memory storage dedicated to its use. DOE's requirements, however, could be met by a single uniprocessor, so long as the computer had a particular capacity, which happened to be the same as that required by EPA. Consequently, firms that responded to DOE's request for proposals by offering uniprocessors might have offered a dual processor configuration or a multiprocessor to EPA. For example, Amdahl offered a large capacity uniprocessor and was the successful offeror in the DOE procurement but could have offered EPA two smaller units in a loosely coupled configuration. Since EPA reviewed only the offers to DOE, however, EPA essentially looked at the cost of two loosely coupled large capacity Amdahl uniprocessors. In our view, EPA's review of the proposals submitted to DOE thus did not necessarily reflect the availability of sources and the cost of equipment that those sources could furnish to meet the agency's needs.

In response to Amdahl's protest, EPA essentially contended that its DPA authorized it to rely on DOE's proposals to determine whether competitive alternatives existed to the contemplated sole-source action. GSA generally has exclusive statutory authority to acquire automatic data processing equipment, 40 U.S.C. § 759 (1976), and we have held that an agency generally is entitled to rely on GSA's authorizations to proceed with a procurement. See PRC Computer Center, Inc., et al., 55 Comp. Gen. 60, 68 (1975), 75-2 CPD 35; E-Systems, Inc., B-185724, December 8, 1976, 76-2 CPD 466.

The protest record, however, did not contain any evidence that GSA was aware of the difference between EPA's and DOE's requirements when it issued the DPA, and we were unable to obtain confirmation from GSA that it was so aware. Moreover, the language of the DPA did not appear to state a conclusion that a review of the offers under DOE's solicitation alone would be sufficient as a market survey. Rather, it cautioned EPA that the acquisition of excess leased automatic data processing equipment was subject to procurement laws and regulations, and only stated that the review "should be adequate" for that purpose. It was our view that the DPA thus left to EPA's judgment whether the review actually would constitute an adequate survey and, as stated, we found that EPA's judgment in that respect was unreasonable. Therefore, we ruled that EPA, which did know the difference between its own requirement and DOE's, should have done more than merely review the DOE proposals.

It now appears, however, that GSA had reviewed both DOE's and EPA's requirements and was aware of the difference between them. For the purpose of our reconsideration, EPA has submitted a written statement, with which GSA has concurred, that GSA was aware of the difference between EPA's and DOE's requirements but still determined that a review of the DOE offers would constitute an acceptable market test for EPA.

This does not change the fact that the market survey was deficient. While EPA legally may have been entitled to rely upon GSA's authorization in purchasing the excess computer, see PRC Computer Center, Inc., supra; E-Systems, Inc., supra, under the circumstances as they now appear the responsibility for this procurement deficiency more properly must be viewed as GSA's rather than EPA's. Although it has computer equipment acquisition authority, GSA is not exempt from the statutory requirement for competition to the maximum practical extent, regardless of whether it acquires equipment itself or delegates authority to another agency to do so. See Federal Judicial Center, 58 Comp. Gen. 350, 355 (1979), 79-1 CPD 206. Given the significant difference between EPA's and DOE's requirements, we believe that GSA should have known that a review of DOE's proposals very likely would not suffice as a

representative test of the market. In fact, EPA did not find one proposal which it considered an acceptable alternative. The determination and findings stated:

> "We have reviewed the proposals received and found two proposals for like equipment, Comdisco at $1,920,787.00 (present value) and CMI at $2,151,628.00, also present value [both less than the $2,468,222 cost of the excess leased computer]. Comdisco refused to furnish a serial number so it is doubtful that they have the machine available. CMI does not have a tightly coupled MP available, but proposes to join two 370/168 units. Since these proposals do not cover presently available units comparable to the IBM excess unit, we conclude that they do not suffice for a market test."

Accordingly, our prior decision is modified to the extent we now hold that GSA should not have authorized a review of the DOE proposals as an adequate market test under the circumstances. By separate letter, we are advising the Administrator of General Services of our view, and recommending that appropriate action be taken to prevent similar problems in the future.

In addition to finding EPA's market survey to have been unreasonably based on the DOE proposals, our prior decision questioned a cost analysis developed by EPA in response to Amdahl's protest, which purported to show the actual cost advantage of the excess leased system over available Amdahl dual processor systems. For example, it did not appear that EPA considered the cost associated with using old equipment. In the reconsideration request, EPA takes issue with our position.

We see no need to discuss the matter further. While we questioned the results of EPA's post-protest exercise, we found it unnecessary to decide whether EPA actually should have found Amdahl's equipment a less costly alternative than the purchase of the excess leased IBM multiprocessor. Instead, we pointed out that EPA had advised

us that it nonetheless intended to replace the IBM equipment through a competitive procurement at the earliest opportunity in fiscal year 1982. (Based on that advice, we did not recommend corrective action despite the fact that we sustained Amdahl's protest.) Thus, the dispute on this issue is academic.

Milton J. Socolar

Acting Comptroller General
of the United States

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

January 28, 1982

B-198910.2

The Honorable Gerald P. Carmen
Administrator of General Services

Dear Mr. Carmen:

We are enclosing a copy of our decision on the Environmental Protection Agency's (EPA) request that we reconsider our holding in Amdahl Corporation, B-198910, B-199942, April 27, 1981, 81-1 CPD 322, concerning EPA's purchase of an excess leased IBM computer. EPA had relied on the delegation of procurement authority (DPA) from your agency authorizing EPA to justify the purchase based on an examination of proposals to supply a similar system to the Department of Energy (DOE). In our April 27 decision, we sustained Amdahl's protest against the purchase because EPA's and DOE's requirements differed in a significant aspect--EPA required a multiprocessor whereas DOE did not--and thus, the survey of the DOE offers in our view was not adequate to justify the purchase. In this respect, the record did not disclose that the General Services Administration knew of the difference in the agencies' needs, or that GSA had intended that EPA exclusively rely on DOE proposals. Therefore, we held that EPA, which did know the difference, should not have based the purchase solely on DOE's proposals.

EPA now has furnished a statement endorsed by your agency that GSA had reviewed both EPA's and DOE's requirements and was aware of the significant difference between them when it issued the DPA. As the enclosed decision indicates, however, we remain of the view that EPA's survey was inadequate and believe that your agency should not have authorized EPA to base its purchase exclusively on a survey of the DOE proposals. We recommend that you take appropriate action regarding the issuance of DPA's in order to prevent similar problems in the future. Please advise us of the action taken.

Sincerely yours,

Milton J. Socolar

Acting Comptroller General
of the United States

Enclosure