

33013 *Number*

DECISION



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

FILE: B-220031 **DATE:** December 20, 1985
MATTER OF: Internal Revenue Service--Request for
Reconsideration

DIGEST:

GAO withdraws its prior recommendation that the contracting agency not renew the remaining 2 option years of the awarded contract and instead resolicit for those years, since the agency states that because of its anticipated future needs, it will not be exercising the final option year of the contract. Further, the agency has established that a competition for its needs for the 1 remaining option year would not be in the government's best interest.

The Internal Revenue Service (IRS) requests that we withdraw our recommendation for corrective action in Centennial Computer Products, Inc.--Reconsideration, B-212979.2, Aug. 22, 1985, 85-2 C.P.D. ¶ 208. For the reasons set forth below, we are withdrawing the recommendation.

Initially, we note that the IRS also has requested reconsideration of our holding in the above decision that the rejection of the proposal Centennial Computer Products (Centennial) submitted in response to request for proposals (RFP) No. IRS-83-053 could not be justified on the grounds given by the agency. The IRS has presented us with several new technical arguments in support of its position that Centennial's proposal properly was rejected, and has asked for a conference to develop and explain further the technical considerations involved in its decision to reject the offer. In addition, Centennial has filed a claim with our Office for reimbursement of the substantial costs allegedly incurred in preparing its proposal. We will address the merits of the IRS's reconsideration request and whether Centennial is entitled to recover such costs in a forthcoming decision. We are issuing the present decision at this time because circumstances establish that, irrespective of the merits of the rejection of Centennial's proposal, it no longer is practicable to implement our recommendation for corrective action as discussed below.

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This approach permits the agency to proceed with future procurement plans immediately, and allows the time and opportunity for full treatment of all relevant technical issues before we render a decision on the other matters.

The IRS issued the RFP for the lease of tape, disk, and cache/disk subsystems to enhance the computer system at its Detroit Data Center. The IRS eliminated Centennial from the competitive range because the rate of access to "cache memory" during the second benchmarking of Centennial's equipment exceeded the RFP's limitations.

In Centennial Computer Products, Inc., B-212979, Sept. 17, 1984, 84-2 C.P.D. ¶ 295, we held that the IRS improperly had determined from the results of a second benchmark of Centennial's equipment that the company's rate of access to cache memory did not meet the RFP's requirement. However, we did find that a comparison of the results of the second benchmark with those of Centennial's first benchmark supported the IRS's assertion that, in violation of the RFP, Centennial "fine tuned" its equipment for the second benchmark by slowing down the noncache operation of its system in order to meet an RFP requirement that cache memory operation be more than 50 percent faster than noncache operation. We further found support from a comparison of the results of the two benchmarks for the IRS's position that Centennial failed to have a required data save device on its cache controller to prevent data from being lost in the event of a power failure.

We modified our decision in Centennial Computer Products, Inc.--Reconsideration, B-212979.2, supra, to sustain Centennial's protest. We held that the IRS's statements in response to Centennial's request for reconsideration established that significant changes from the first benchmark in fact were made in running the second benchmark. Therefore, the test results from the second benchmark could not be compared to the test results of the first benchmark to substantiate the IRS's conclusions, especially since there were other logical and acceptable explanations for Centennial's second benchmark results.

The contract awarded under the RFP, including the exercise of four 1-year options, does not extend beyond 60 months--the anticipated life of the computer system at the IRS's Detroit Data Center. While we noted in the reconsideration decision that the first option year was

nearly over and that it was not feasible for the IRS to resolicit for the upcoming option year, we recommended that the agency not renew the contract for the remaining 2 option years and instead resolicit its requirements for those years.

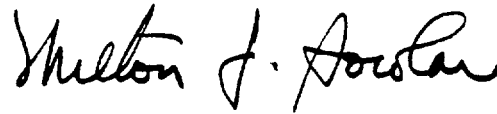
The IRS contends that in view of its future requirements, a resolicitation would be unduly burdensome (evaluation of offers, new benchmark, etc.) and costly. The agency states that the Detroit Data Center computer system, of which the cache/disk subsystem is a part, will be replaced at or near the beginning of the final option year. Consequently, the agency would quite likely only be soliciting for a 1-year period, not for 2 years. The IRS further states that if a contractor other than the current one did receive the award for the 1-year period, it would take at least 3 months to transfer the data to the contractor's cache/disk subsystem, which the agency asserts would be very disruptive to the operation of the Detroit Data Center. Finally, the IRS argues that, given the natural advantages that the current contractor would have, it would be difficult to find offerors who would be able or willing to compete for a 1-year contract to develop cache/disk requirements for a 4-year-old computer system.

We withdraw our recommendation that the IRS resolicit its cache/disk requirements for the final 2 option years of the awarded contract, since we have no reason to dispute the agency's position that resolicitation would serve no useful purpose in light of the agency's anticipated time-frame for replacing the entire computer system at the Detroit Data Center and the probable lack of competition. In this regard, we note that Centennial and the awardee were the only offerors who responded originally. Moreover, in commenting on the IRS's request for withdrawal of our recommendation for corrective action, Centennial implies that its real interest at this point is in assuring that the IRS's procurement plans for the future will involve full and open competition and will not reflect an unwarranted predisposition towards the current contractor's equipment. The IRS advises that any cache/disk requirements for the computer system that will replace the current one will be procured as part of the complete replacement acquisition, and we have no reason to believe that the IRS will not attempt to maximize competition to the greatest degree practicable or otherwise will not act fairly towards offerors other than the current contractor.

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Accordingly, our recommendation for resolicitation of the IRS's remaining 2 option year requirements under the awarded contract is withdrawn.

A handwritten signature in cursive script, reading "Milton J. Fowler".

Acting Comotroller General
of the United States