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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: Computer Universal, Inc.

File: B-291890; B-291890.2

Date: April 8, 2003

Peter L. Cannon for the protester.

Dennis Foley, Esq., and Phillipa L. Anderson, Esq., the Department of Veterans Affairs, for the agency.

Sharon L. Larkin, Esq., and Guy R. Pietovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester was not unfairly denied opportunity to compete under Federal Supply Schedule acquisition, where it does not hold schedule contract to provide requested services, and agency reasonably determined that protester was not capable of providing such services.

DECISION

Computers Universal, Inc. (CUI), a section 8(a) contractor, protests the Federal Supply Schedule (FSS) acquisition of program management support services under request for quotations (RFQ) No. 549-03-44, issued by the Department of Veterans Affairs. CUI complains that it was not fairly given an opportunity to compete under the RFQ and that the incumbent contractor should be disqualified due to an alleged organizational conflict of interest.

The protests are denied.

The RFQ, issued on December 13, 2002, sought on-site program management support services for the Pacific Telehealth & Technology Hui Office, Tripler Army Medical Center in Honolulu, Hawaii. It included broad task orders to provide project management, technical, business management, research and training, intellectual property, marketing and public relations, sustainment, and administrative support. RFQ, Statement of Objectives ¶ 2.2. Information technology is a small aspect of this work. *Id.*, Subtasks 3.3.6 - 3.3.9. The incumbent for these services at the Hui Office is Mele Associates, which is currently performing with a staff of approximately 30 individuals.

CUI previously performed limited information technology services for the Hui Office, with one on-site individual. This contract expired January 31, 2003. At the end of the base period, the agency chose not to exercise the contract option, because the agency determined that the work could be performed under the broader program management schedule.

The agency sought quotations from six FSS vendors and received quotes from three. It did not seek a quotation from CUI because it did not consider CUI to be capable of performing all the contract management services. In making this determination, the agency reviewed CUI's current FSS schedule, CUI's web site, and the Small Business Administration's Procurement Marketing Access Network (Pro-Net).¹ According to the agency, these showed that CUI did not have significant program management experience; rather, its experience was limited to providing only information technology services, as reflected in its past contract at the Hui Office.

CUI complains it was not given an opportunity to compete under the RFQ. The FSS program provides federal agencies with a simplified process for obtaining commonly used commercial supplies and services at prices associated with volume buying. Federal Acquisition Regulation (FAR) § 8.401(a). The procedures established for the FSS program satisfy the general requirement for full and open competition. FAR § 6.102(d)(3); Sales Res. Consultants, Inc., B-284943, B-284943.2, June 9, 2000, 2000 CPD ¶ 102 at 3. Generally, for orders not exceeding the maximum order threshold, the solicitation of quotes from three FSS vendors is adequate. See FAR § 8.404(b)(2).

Here, we find that the agency reasonably determined that CUI could not meet its needs, since CUI performed only information technology services (which were a small portion of the overall program management services of the RFQ), and under a different FSS schedule that provided only for information technology services. CUI does not currently have a contract under the schedule for program management services, and therefore could not have submitted a quote under the RFQ. See CDM Group, Inc., B-291304.2, Dec. 23, 2002, 2002 CPD ¶ 221 at 3.

CUI also alleges that it was "blocked" from competing because it hired an attorney to bring intellectual property rights claims against the agency. The agency denies this, and CUI has presented no evidence in support of its allegations. Because contracting officials are presumed to act in good faith, CUI's speculation provides us with no basis to conclude that the failure to solicit CUI was due to bad faith. E.F. Felt Co., B-289295, Feb. 6, 2002, 2002 CPD ¶ 37 at 3-4.

¹ Pro-Net is an on-line database of information on more than 195,000 small, disadvantaged, Section 8(a), HUBZone, and women-owned businesses. See <www.pro-net.sba.gov>.

CUI also complains that the agency did not exercise the option years on its information technology contract. However, the decision of whether to exercise an option is a matter of contract administration, and is not a matter for our review. Jones, Rossotto & Walker, B-283288.2, Dec. 17, 1999, 99-2 CPD ¶ 111 at 4.

CUI also seeks to disqualify Mele due to an alleged conflict of interest. Specifically, CUI contends that Mele has a “significant advantage” over other contractors because of its incumbent status, and that a clause in CUI’s information technology contract prohibits FSS vendors from performing development work, which CUI asserts Mele will do under a contract awarded under the RFQ. We find these contentions to be without merit. The RFQ does not provide for performance of development work. Furthermore, the advantages of incumbency from previously performing similar services, as alleged here, do not, without more, constitute a conflict of interest or give rise to an unfair competition. Snell Enters., Inc., B-290113, B-290113.2, June 10, 2002, 2002 CPD ¶ 115 at 8.

The protests are denied.

Anthony H. Gamboa
General Counsel