

DECISION

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

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FILE:

B-216613

DATE: March 11, 1985**MATTER OF:**

Cullinet Software

DIGEST:

1. Agency's rejection of protester's software, proposed as functionally equivalent to that described in a Commerce Business Daily announcement of intent to acquire the software on a sole source basis from another vendor under a nonmandatory schedule contract, has a rational basis when the agency (1) already has acquired the protester's software and (2) currently seeks an alternate system for its multiple users.
2. When contracting agency reasonably seeks alternate software for a computer center with multiple users, offeror whose product already has been acquired should be apprised of agency's intent, rather than encouraged to respond to a Commerce Business Daily announcement of intent to acquire alternate software from another source's nonmandatory schedule contract.

Cullinet Software protests the U.S. Department of Agriculture's issuance of a delivery order for various software to be used in its Washington Computer Center. The order, issued to Applied Data Research, Inc. on September 28, 1984, was under that firm's nonmandatory automatic data processing schedule contract, No. GS-00k-840IS5765.

We deny the protest.

The agency announced the proposed order in the Commerce Business Daily on August 21, 1984, listing the particular software packages that it intended to acquire from Applied. These included a "Datadictionary"; "Dataquery" for informational requests; "Ideal," which integrates dictionary, library, programming, editing, and other functions; and "Datacom/DB," a management system providing for storage and

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retrieval of data. The announcement invited vendors that could provide functionally equivalent software to furnish technical material within 30 days.

The Department of Agriculture previously acquired an earlier version of Cullinet software, called Release 5.7, for its Washington Computer Center, and it is continuing to contract with Cullinet to maintain this software. Cullinet responded to the Commerce Business Daily announcement by providing data on the updated version of its software, called Release 10. The agency, however, rejected Cullinet's software by letter dated September 25, 1984. Apparently no other vendor responded to the Commerce Business Daily announcement.

Although the Department of Agriculture's report on the protest does not make this point entirely clear, the agency essentially indicates that Cullinet would not receive any order for its software pursuant to the Commerce Business Daily announcement because Agriculture has already acquired the Cullinet database software. In this regard, the agency states that the software being acquired from Applied is not intended as a replacement for the Cullinet software, but as an expansion of that to be offered to Washington Computer Center users. The center provides automatic data processing services to a wide variety of organizations, in both the Department of Agriculture and other agencies.

The determination of the needs of the government and the methods of accommodating those needs is primarily the responsibility of the contracting agencies. Maremont Corp., 55 Comp. Gen. 1362, 1376 (1976), 76-2 CPD ¶ 181. The record here indicates that the agency is simply trying to expand software options available to its multiple users, and that the reasons initially given to Cullinet for not instead upgrading to Cullinet's Release 10 are only tangentially related to the acquisition of the Applied software. It is also apparent that the two vendors' software performs similar but not identical database functions, with different approaches inherent in their different proprietary systems. Each system undoubtedly has different strengths and weaknesses, and thus users may find one or the other more suitable or cost effective for a particular application. In view of the Washington Computer Center's status as a

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multiple user organization, we are unable to conclude that its goal of having software options is without a rational basis.

Cullinet states that it is offering to upgrade its software at the Washington Computer Center from Release 5.7 to Release 10 at no charge to the government; the agency states that it intends to continue to maintain existing Cullinet software and will upgrade it to Release 10 when that becomes "final." Thus, it appears that Cullinet will be providing essentially what it sought to offer in response to the Commerce Business Daily announcement.

We believe that the Department of Agriculture should have forthrightly apprised Cullinet of its ineligibility, instead of encouraging it to respond to the Commerce Business Daily announcement. Cf. Masstor Systems Corp., B-215046, Dec. 3, 1984, 64 Comp. Gen. , 84-2 CPD ¶ 598 (potential sources responding to Commerce Business Daily announcement of proposed sole-source order from nonmandatory automatic data processing schedule must be advised of essential requirements before they are rejected as potential sources of supply). However, since Cullinet is not in a position of being able to satisfy the agency's need for software other than Cullinet's product, the rejection of Cullinet here is not legally objectionable.

Cullinet's protest is denied.

Harry R. Van Cleve
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General Counsel