

DECISION



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

FILE: B-186151

DATE: September 21, 1976

MATTER OF: Federal Data Corporation

DIGEST:

Lowest cost proposal which offered "lease-to-ownership" plan for ADPE was properly rejected as not conforming to solicitation requirements where solicitation provided that award would be made to lowest offer under purchase, lease or lease with option to purchase procurement plans.

Federal Data Corporation (Federal) protests the award to California Computer Products, Inc. (Calcomp), by the Veterans Administration (VA) of Contract V101(134)P-432 under RFP 7-76.

Pursuant to a delegation of procurement authority from the General Services Administration (GSA), the RFP was issued on January 29, 1976, for an IBM 370/168 CPU and associated peripheral equipment for use at VA's Data Processing Center, Hines, Illinois. The solicitation provides that:

"Evaluation of cost proposals will be made on three methods of procurement; lease for the 36 month systems life, purchase upon completion of the acceptance tests, and lease with option to purchase (evaluation of this option will assume purchase at the 12th month). The award will be made on the basis of the method of procurement providing the lowest total systems life cost to the Government, all costs considered."

In addition, "residual value" is defined at Item 16 of the Glossary appended to the RFP as follows:

"Present value of the equipment at the end of the contract period under any plan wherein title to the equipment is vested in the Government at any point during the contract period (i.e. purchase or lease with purchase option). Present value of residual value will be computed as follows: Unit purchase price x residual value (50% in this case) x the applicable discount factor (36th month .751315)."

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The five offers received were evaluated and a 36 month lease contract was awarded to Calcomp as the lowest offeror at \$594,647.

It is Federal's position that it is entitled to the award because the evaluated cost of its "lease-to-ownership" proposal, which requires the Government to take title to the equipment, not later than the end of a 36 month lease period, is nearly \$70,000 lower than Calcomp's accepted lease offer where cost is computed under the maximum lease period. Federal argues that under the definition of residual value contained in the solicitation, the present value of its equipment must be deducted from the cost of its proposal when its equipment is transferred to the Government under the terms of its "lease-to-purchase" offer.

The record indicates that Calcomp's proposal was low on all three methods of procurement requested by the terms of the solicitation: lease for 36 months, purchase upon completion of acceptance tests, and lease with option to purchase. Although Federal's "lease-to-ownership" proposal constitutes the lowest cost offer, the solicitation specified that only the methods of procurement cited above would be considered for award. Federal's "lease-to-ownership" plan is significantly different from the 36 month lease or the lease with option to purchase methods specified in the solicitation in that under Federal's plan the Government is obligated to take title to the equipment while under the lease or lease with option to purchase no such obligation exists. It is obvious that Federal's plan which contemplates a lease period before title is transferred to the Government differs substantially from the remaining method specified in the solicitation, the outright purchase.

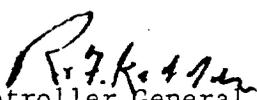
We do not believe that the inclusion in the solicitation of a definition of residual value supports the contention that Federal's plan fits within the requirements since a residual value figure was needed to evaluate the lease with option to purchase method set forth in the solicitation, and the applicable provision already quoted makes specific reference to lease or lease with purchase option.

Federal's "lease-to-ownership" plan was not in accordance with any one of the three methods expressly requested by the solicitation (which was reviewed and specifically ratified by GSA). Since proposals must be evaluated in accordance with the terms of the solicitation, the portion of Federal's proposal pertaining to its "lease-to-ownership" plan could not be considered in the evaluation

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of proposals and was properly rejected. Xerox Corporation, B-180341, May 10, 1974, 74-1 CPD 242. If Federal wished to protest the evaluation provisions of the solicitation it should have done so prior to the closing date for receipt of proposals. 4 C.F.R. 20.2(b) (1976).

The protest is denied.


Acting Comptroller General
of the United States