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Lit. 4c
P.L. II

DECISION



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

FILE B-190461

DATE: March 13, 1978

MATTER OF: Wang Laboratories, Inc.

DIGEST:

1. Solicitation does not require that item offered be previously classified but rather that items meet performance requirements of specifications. Reference to GSA classification code was merely informational.
2. Contention that new equipment was required is without merit since specifications did not call for new equipment as opposed to used equipment.
3. Agency properly did not evaluate equipment features which were not required by specifications nor listed as evaluation criteria. Moreover, system life costing analysis does not require evaluation of specification factors such as employees' morale.

Wang Laboratories (Wang) has protested the General Services Administration, Region 3's (GSA) award of a contract (GS-035-48486) to 3M Business Products Sales, Inc. (3M) for "stand alone data terminals." Wang's protest has three bases: (1) the competition was restricted to firms offering equipment classified as Federal Supply Classification (FSC) 7025 and 3M's equipment is not so classified; (2) the Government is required to buy new equipment and 3M's equipment is used; and (3) the solicitation stated that award would be made to the offeror whose offer reflected the lowest overall cost to the Government and 3M's costs will be higher than Wang's.

Wang's first basis for protest, that the contract was awarded to 3M, a vendor that does not have equipment classified as "FSC Class 7025," apparently refers to the solicitation's five amendments which contain, in several insignificant variations, the following language:

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"The above numbered Solicitation for FSC Class 7025, Stand Alone Data System is amended as follows: * * *."

The original solicitation, however, did not identify the equipment to be purchased as FSC Class 7025. In any event, Wang insists that the above quoted language limited the competition to those vendors which had had their equipment classified by GSA as "7025" equipment. Moreover, Wang asserts that 3M's equipment has been classified by a commercial classification as "word processing," not "automatic data processing" equipment and, therefore, 3M's equipment lacks "sophisticated capability by the processor and proved utilities for peripherals * * *."

GSA urges that its use of the term "FSC Class 7025" in its introductory remarks to the solicitation's amendments was not intended to limit and did not limit competition to vendors which had had their products classified as FSC Class 7025. GSA states that the language may have caused some confusion, but maintains that the very clear language of the solicitation indicated that proposals meeting the mandatory performance requirements of Sections F and G of the solicitation would be considered for award. GSA also notes that "FSC Class 7025" is an imprecise term and refers generally to all

"* * * devices used to control and transfer information to and from a CPU [central processing unit]. * * * This class also includes data transmission terminals, batch terminals, and display terminals which are specially designed or modified to be used in conjunction with digital, analog or hybrid CPU's. It includes modems when they are integral to a terminal. It also includes storage devices in which data can be inserted, retained and retrieved for later use." GSA/Automated Data and Telecommunications Service (ADTS) pamphlet entitled "Data Processing and Telecommunications: List of ADP Commodities for Procurement" May 1974.

For the following reasons, we agree with GSA.

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The reference in the solicitation's amendments to FSC Class 7025 is not to be read as a requirement that the equipment offered must have been previously classified as FSC Class 7025. We think it is consistent with the other solicitation provisions to treat the reference as informational, that is, to put potential offerors on notice of the general kind of equipment to be purchased.

The detailed, mandatory performance specifications evidence GSA's intent to keep competition on the broadest possible base.

Wang has also raised the point that 3M's equipment will not meet GSA's minimum needs, because it has been commercially classified as "word processing." Wang, however, has not demonstrated that the terms "automatic data processing" and "word processing" are so mutually exclusive that equipment falling into one category cannot be classifiable in the other category.

Wang's second ground of protest is that, contrary to law, GSA purchased used rather than new equipment. GSA correctly points out, however, that there is no requirement that GSA purchase new equipment exclusively. This is unlike solicitations in GSA's schedule contracts for FSC Class 7025 equipment which require prices to be submitted on only new equipment

Wang's third ground of protest is that GSA improperly evaluated the cost of purchasing and operating the equipment for the projected 60-month system life. Wang's position is summarized in its letter of October 11, 1977, to the Administrator of GSA:

" * * * considering the generally accepted rule of 'six-parts' in segmenting the overall cost of an ADP System, apparently not all factors were considered in the evaluation (only hardware price, maintenance, software and training); yet the general largest segment (3/6 to 4/6) -- operating personnel and system/programming personnel costs apparently was not considered.

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"Nor was objective consideration given to cost/performance of hardware * * *

* * * * *

"It is common knowledge in the Government and in industry that the lowest overall cost can only be determined by considering such factors in the evaluation, such as:

- a. increased production because of higher speed equipment
- b. improved achievement performance by personnel because of:
 - (1) higher speed equipment
 - (2) larger screen (less changes)
 - (3) ADP-proved utilities (improved achievement performance by systems/programming personnel)
 - (4) improved up-time, for proved greater reliability
- c. improved personnel morale because of eye-ease green visual display and people oriented designed equipment."

GSA responds in turn that in considering the system-life costs it applied the GSA/ADTS Bid Analysis and Reporting System (BARS) which was designed to provide an analytical tool for evaluating proposals by calculating the cost of various acquisition options. Such costs are the offeror's price for lease, lease with option to purchase, and purchase of equipment, and the price of software and support. Cost factors, such as the value of equipment having higher speed than necessary, larger video screens, and personnel morale, are, according to GSA, too speculative and, therefore, are impossible to evaluate. We see no basis to disagree with GSA's analysis regarding the cost-to-performance of 3M's and Wang's equipment.

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Accordingly, the protest is denied.

Phyllis
Deputy Comptroller General
of the United States