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Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: BellSouth Telecommunications, Inc.

File: B-258321

Date: January 6, 1995

Robert M. Halperin, Esq., James J. Regan, Esq., and Todd L. Hutchen, Esq., Crowell & Moring; and Lawrence E. Gill, Esq., BellSouth Telecommunications, Inc., for the protester.
Michael W. Clancy, Esq., and Nanci S. Redman, Esq., Pettit & Martin, for GTE Government Systems Corporation, an interested party.
Pamela Reiner, Esq., and Emily Hewitt, Esq., General Services Administration, for the agency.
Tania L. Calhoun, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency is required to consider offeror's alleged cost savings concerning the government's long-distance network with respect to a procurement for local telecommunications services is denied where the solicitation does not require the contracting agency to consider such costs, and where the costs at issue are not directly related to the acquisition.

DECISION

BellSouth Telecommunications, Inc. protests the method chosen by the General Services Administration (GSA) to conduct the cost evaluation under request for proposals (RFP) No. KEL-CC-91-0004, issued to acquire integrated digital voice and data local telecommunications services and/or equipment under the agency's Aggregated System Procurement (ASP) program. BellSouth argues that GSA has improperly determined not to consider certain alleged cost savings presented by its approach to the solicitation's requirements.

We deny the protest.

BACKGROUND

The ASP program is a means to provide, under a single operational concept, state-of-the-art digital voice and data local telecommunications services and/or equipment to GSA consolidated users at primary service locations, i.e., large government sites. The program divides the country into a number of geographic areas, and a solicitation is issued for each area. This solicitation is for the Central Zone II region, located in the southeastern United States.[1]

ASP contractors must supply dial tone for users calling within the ASP system. In addition, to provide the local telecommunications sought here, the ASP system must interface with the local exchange carrier (LEC), more commonly known as the local telephone company, which carries local calls from within the ASP system to nongovernmental parties within the local exchange area, and vice versa. Finally, the ASP system must interface with the government's long-distance network, the Federal Telecommunications System intercity network (FTS2000), and other interexchange carriers.

This solicitation, issued on January 18, 1991, anticipates award of an indefinite quantity, indefinite delivery contract to provide local telecommunications services over a 7-year base period, with up to 3 option years. Offerors are to propose solutions for 61 specific locations throughout the region, representing the government's best estimate as to locations requiring service upon contract award.

Section M.1 of the solicitation instructs prospective offerors that award will be made to the offeror that satisfies all requirements and mandatory options, and whose proposal is determined to be the most advantageous to the government. While technical aspects[2] are more important than cost, as the technical aspects between proposals become more equal, the importance of cost increases.

The planned price evaluation of proposals is described in section M.5 of the solicitation. According to section M.5e, "[t]he pricing plan which results in the lowest overall cost to the government . . . will be used in the evaluation for source selection." With respect to that pricing plan, section B contains eight pricing schedules. Along with schedules for the price of the equipment and services

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[1]The Central Zone II region includes the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

[2]These technical aspects are not at issue here.

themselves, schedule D asks offerors to provide the costs associated with tariffed charges for the interconnection of the ASP system with the LEC network--LEC access costs. There is no corresponding schedule for FTS2000 network access costs. In addition, schedules G and H ask offerors to provide information bearing on the costs of power consumption, square footage, and environmental requirements. As discussed further below, section M.5.2 notifies offerors of the inclusion in the price evaluation of these "in-house" costs.

Several offerors submitted initial proposals by June 6, 1991. After evaluating these initial proposals, GSA conducted discussions with all offerors and requested revised proposals. These revised proposals were also evaluated, and additional negotiations were scheduled with BellSouth for June 21, 1994. Just prior to these negotiations, BellSouth provided the contracting officer with information relating to cost savings purported to exist as a result of its approach to the solicitation's requirements, and asked that the material be discussed during the negotiation session. During that session, the contracting officer informed BellSouth that he had not had time to sufficiently review the information; however, on June 23, the contracting officer informed BellSouth that GSA would not consider these alleged cost savings. BellSouth protested this decision to the agency on July 6, just prior to submitting its best and final offer (BAFO). After the agency-level protest was denied on August 12, this protest followed. GSA is in the process of evaluating BAFOs, and no award decision has been made. BellSouth argues that GSA has improperly refused to consider the cost savings it alleges it offers with respect to FTS2000 access costs.[3]

DISCUSSION

The parties agree that there are two potential solutions to the solicitation's requirements. BellSouth, the LEC for much of the geographic area covered by this solicitation,[4] proposes to use central office switches, also known as Centrex service. Since central office switches are located on an LEC's premises, only an LEC can propose this solution.

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[3]In its initial protest, BellSouth also argued that GSA had improperly refused to consider differential training costs and LEC access costs that the government would incur under the different proposals. In its comments on the agency report, the protester expressly withdrew these issues.

[4]According to GSA, BellSouth currently provides dial tone and access to dial tone to the government and, as such, is the incumbent provider of service.

The other possible solution to the solicitation's requirements involves the use of individual, private switches, also known as private branch exchanges (PBX), which reside on the customer's premises and are for the dedicated use of the customer facility.

The ASP system interconnects with FTS2000 at interfaces called Service Delivery Points (SDPs).[5] The FTS2000 contractor charges the government an access charge every time a call is placed on the long-distance system. Originating access charges, for those calls originating from systems within the region, include an initial period rate and an additional period rate for most area pricing schedules. Terminating access charges, for those calls coming into stations within the region, include an additional period rate for most area pricing schedules. As discussed below, these access charges are but one of several charges which comprise the cost of a long-distance telephone call.

Central office switches, each of which would constitute an SDP, would consolidate government calls from more than one government facility. In contrast, PBXs, each of which also would constitute an SDP, would generally be situated at each government location.[6] Since the FTS2000 contractor gives the government a quantity discount for use of the SDPs, the more calls accessing the system on a single SDP, the greater the savings granted by the FTS2000 contractor to the government. The agency states that BellSouth's solution, which proposes to serve the 61 different government locations set forth in the RFP through only 28 central office switches--or SDPs--may result in the FTS2000 contractor providing for quantity discounts. In its protest, BellSouth calculated the cost savings presented by its solution at $8,735,182.

The threshold issue here is whether GSA is required to consider these alleged cost savings in its evaluation of proposals. GSA contends that since this acquisition is for local telecommunications services, these alleged cost savings which would be incurred under the government's long-

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[5]An SDP is a physical and/or service interface between the FTS2000 network and customer premise equipment or other facilities (such as Centrex-type service and telephone central offices). An SDP can be located on or off government premises.

[6]GSA notes that one PBX offeror here has proposed a hub or satellite configuration, in which a single PBX services two or more government locations; each hub would serve as an SDP onto the FTS2000 network.

distance network contract are not directly related to this acquisition and need not be considered. GSA also argues that the alleged cost savings are not sufficiently quantifiable to be considered in its evaluation of proposals. In response, BellSouth argues that the RFP provisions calling for consideration of "all costs" and "any other costs" oblige GSA to consider the alleged FTS2000 access charge savings, which the protester argues are sufficiently quantifiable. BellSouth also argues that the Competition in Contracting Act of 1984 (CICA), the Federal Acquisition Regulation (FAR), and the Federal Information Resources Management Regulation (FIRMR) require agencies to evaluate total cost in making an award. Finally, BellSouth argues that GSA's refusal to consider these alleged cost savings is unreasonable.

As a general rule, agencies are required to include cost or price as a significant factor in the evaluation of proposals, 41 U.S.C. §§ 253a(b)(1)(A) and 253b (1988); FAR § 15.605(b), and FIRMR § 201-39.1501-1(a) specifically requires agencies to evaluate "total cost" when acquiring federal information processing (FIP) resources. An evaluation and source selection which fails to give significant consideration to cost, or which varies from the RFP's cost evaluation provisions, is inconsistent with CICA and cannot serve as the basis for a reasonable source selection. Lockheed IMS, B-248686, Sept. 15, 1992, 92-2 CPD ¶ 180. While agencies have considerable discretion in determining the particular method to be used in evaluating cost or price, that method should, to the extent possible, accurately measure the cost to be incurred under competing proposals. Id.; Electronic Warfare Integration Network, B-235814, Oct. 16, 1989, 89-2 CPD ¶ 356.

Section M.5 of the solicitation, "Evaluation of Prices," does not specifically require GSA to evaluate FTS2000 access charges. While it refers to the pricing schedules in section B, one of which is for LEC access costs, there is no analogous schedule for FTS2000 access charges. BellSouth first quotes a passage from section M.5a to support its contention that "all costs," including FTS2000 access charges, must be considered. That section reads, in pertinent part:

> "The method employed for the evaluation will be the discounted cash flow of all costs anticipated to be incurred by the government during the contract period. To reduce costs to the present value, the government will use the ten (10) year Treasury Constant Maturity Rate from the Federal Reserve Board Statistical Release G.13 for the latest available month, plus one-eighth (1/8) of

> one (1) percentage point (1.125%) as the discount rate at the time: . . . ."

To be reasonable, an interpretation of solicitation language must be consistent with the solicitation when read as a whole and in a reasonable manner that gives effect to all of its provisions. Dynamic Sys. Technologies, Inc., B-253957, Sept. 13, 1993, 93-2 CPD ¶ 158. When read as a whole, this section does not inform offerors which costs will be evaluated, but how they will be evaluated. BellSouth's selective quotation from this section, cited completely out of context, does not support its position.

BellSouth next quotes a passage from section M.5.2 in support of its argument that "any other costs," including FTS2000 access charges, must be considered. That section, titled "In-House Costs," reads, in pertinent part:

> "In-house costs such as electricity, air conditioning, and space cost or any other costs which the government will incur in operating the equipment or service, shall be included in the evaluation to determine the total system cost to the government."[7]

Again, this section, when read as a whole, clearly refers to "any other" in-house costs, an example of which can be found further along in this section, in a description of how the government will evaluate site preparation costs. BellSouth does not explain why FTS2000 access charges, which it asserts are analogous to LEC access costs, for which prices were to be entered on a separate pricing schedule, should be considered an in-house cost akin to the costs of electricity and space, costs for which there are also separate pricing schedules. Moreover, BellSouth's implication that GSA is evaluating LEC access costs pursuant to this section, as an "any other cost," is mistaken, as both the solicitation and the filings before this Office make it apparent that the LEC access costs are being evaluated pursuant to pricing schedule D.

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[7]This provision mirrors FIRMR § 201-39.1501-1, which states that, in addition to the factors set forth in FAR § 15.605, the contracting officer shall evaluate total cost, including the following pertinent factors:

> "Other support and in-house costs over the system life for installing, operating, and disposing, where quantifiable and when these costs may differ based on offers received."

Though the solicitation does not specifically require a consideration of FTS2000 access charges, section M.5e states that the pricing plan which results in the "lowest overall cost" will be used in the evaluation. The FIRMR defines lowest overall cost, in pertinent part, as "the least expenditure of funds over the system life, price and other factors considered, including, but not necessarily limited to . . . [t]he identifiable and quantifiable costs . . . [d]irectly related to the acquisition and use of the FIP resources; . . . ." FIRMR § 201-39.201(c)(1). Consequently, our determination centers on whether the FTS2000 access charges are directly related to this acquisition of local telecommunications services.

To reiterate, the system being acquired here is for local telecommunications services. Thus, in addition to allowing ASP users to call each other on the ASP system, the ASP contractor is "solely responsible for interfacing the offered system(s) and equipment with all circuits and facilities provide by the LEC to meet the requirements of this contract," and is required to submit prices for various items associated with LEC access. An LEC, a local telephone company, connects all subscribers within a geographic area by local lines. Local calls are those between users whose telephones are connected to the same local exchange, using local lines.[8] Therefore, local telecommunications services necessarily include LEC access, as these services include calls from local callers outside the ASP system to ASP users, and vice versa. As BellSouth stated in its initial protest with regard to LEC access costs, "[t]hese costs are as direct as can be--the system will not function as required without incurring them." However, since government users must also make and receive long-distance communications, the ASP system must interface and interoperate with the FTS2000 network, and the ASP contractor must ensure that the offered equipment and facilities function with that network.

BellSouth does not argue that the local telecommunications services system being procured here will not work without incurring FTS2000 access charges, but rather that since the RFP requires an interface with that network, FTS2000 access charges must be considered. However, to "interface" is to ensure that separate functional units will operate in conformance with overall system requirements. When new items of equipment are introduced into an existing system of communication, its electrical and mechanical characteristics

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[8]<u>The Facts on File Dictionary of Telecommunications</u>, revised ed., John Graham, 1991, at 90.

must interface with existing components.[9] To the extent that the system will not function without interfacing with FTS2000, GSA specifically states that it is considering FTS2000 interface costs, those directly relating to ASP access onto the FTS2000 network, in its evaluation of proposals. FTS2000 "access" charges, on the other hand, are but one component of the cost of each long-distance telephone call,[10] and the system being acquired here is not for long-distance telecommunications services. Thus, in declining to consider all but the interface charges associated with the FTS2000 network, GSA is not ignoring the terms of the solicitation, but adhering to them.

BellSouth incorrectly asserts that our decision in Flight Int'l Group, Inc., 69 Comp. Gen. 741 (1990), 90-2 CPD ¶ 257, controls the resolution of this protest. In that case, the protester objected to the award of a contract for flight training services to another offeror, arguing, among other things, that the agency had improperly failed to consider the different fuel efficiencies for the different aircraft offered. The RFP in Flight Int'l Group, Inc. explicitly required that, in evaluating price, "any other costs to the government attributable to the offeror's proposal will be included in the total price to the government." As discussed above, such language is not present in this solicitation.[11] BellSouth's argument that if fuel costs are directly related to an acquisition of flight training services, FTS2000 access charges are directly related to an acquisition of local telecommunications services, is not persuasive. Aircraft do not fly without fuel. The local telecommunications services sought here work separately from the FTS2000 network, apart from interface with that network, which costs are being considered.

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[9]Id. at 82.

[10]The other components are network transport charges (the charge to carry the call over the network from the originating location to the terminating location); feature charges (usage-based charges for particular features); and GSA overhead (a charge determined by applying the user specified rate to the sum of the originating access, network transport, terminating access, and feature charges).

[11]Likewise, language such as that in the solicitation at issue in Lockheed, IMS, supra, which required evaluation of "any other cost which might be incurred to make the proposed system fully operational," is not present here.

BellSouth finally argues that GSA's decision to consider the "collateral" LEC access costs, but not the "collateral" FTS2000 access charges, is unreasonable. In so arguing, the protester misstates the agency's position. The analogy, found in GSA's denial of BellSouth's agency-level protest, was made between LEC network costs and FTS2000 costs, both of which include charges beyond that associated with access.[12] GSA is considering directly related LEC access costs, identified in schedule D, for such things as Direct Inward Dial and Trunking. In the context of this acquisition of local telecommunications services, such access costs to the local telephone company are not analogous to charges for long-distance telephone calls. Since we agree with the agency that FTS2000 access charges are not directly related to this acquisition, the agency's decision not to consider them in its evaluation is not legally objectionable.

In any event, our review of the record leads us to agree with GSA that these alleged cost savings are too speculative to require the agency to consider them in its evaluation of proposals. Among other things, the alleged cost savings are based on volume discounting practices of FTS2000 vendors which would be difficult, if not impossible, to quantify for the purposes of evaluating proposals. In addition, while the alleged cost savings are based upon this solicitation's anticipated 10-year contract period, the FTS2000 contract upon which the alleged cost savings are based expires in 1998. Thus, co-existence of both contracts will continue for, at most, 3 1/2 years, and both the terms of any successor contract and the technology to be utilized are not now known. Moreover, GSA states, and the protester does not dispute, that an accurate assessment of FTS2000 access charge savings requires consideration of all services available on the FTS2000 network, an effort that would go far beyond the ASP service requirements, as well as extensive non-ASP service usage costs, which are incurred independent of the ASP system being acquired. GSA decided not to estimate and calculate the FTS2000 network usage for six service types over each proposed ASP switch for each offeror since the resulting estimate would only in small part be attributable to ASP usage, and such results would

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[12]GSA's denial of the protest stated:

> "FTS2000 costs, LEC network costs, alternative access provider costs, and other common carrier costs are all collateral costs associated with delivering complete telephone service to the government and are not associated with operating the equipment or service under this acquisition for local services."

not be based upon any overall certain or fixed price or quantity. Under the circumstances, we have no basis to find the agency's determination improper.

The protest is denied.

for Ronald Berger
Robert P. Murphy
General Counsel