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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Carahsoft Technology Corporation

File: B-297112

Date: November 21, 2005

Frederick W. Claybrook, Jr., Esq., and Edward R. Murray, Esq., Crowell & Moring LLP, for the protester.

Barry C. Hansen, Esq., Kristen E. Bucher, Esq., and John Caterini, Esq., Department of Justice, and Sherry Kinland Kaswell, Esq., Department of the Interior, for the agencies.

Kenneth L. Kilgour, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Solicitation for software to computerize employee appraisal process that calls for the same software to be used both agency-wide and for one agency component that requires its own separate, internally-hosted software system is not unduly restrictive of competition where the record shows that the requirement furthers agency's need for efficiency and risk avoidance in its modernization efforts.

DECISION

Carahsoft Technology Corporation protests the terms of request for quotations (RFQ) No. 1435-04-05-RQ-44166, issued by the Department of the Interior–GovWorks for a web-based executive pay and performance appraisal system (EPPAS) for the Department of Justice (DOJ), Justice Management Division (JMD).¹ Carahsoft argues that the requirement that the software system be capable of being installed on the agency's internal computer networks is unduly restrictive of competition.

We deny the protest.

¹ GovWorks is a franchise fund established in the Department of Interior to provide administrative procurement services to federal agencies. DOJ entered into an agreement with GovWorks for procurement support in connection with this acquisition.

DOJ is a large agency, with approximately 37 components² and 727 Senior Executive Service (SES)-level positions, 250 of which are in the FBI. Currently, all SES performance work plans, performance appraisals, mid-year and annual evaluations, and bonus and award documents are prepared manually. According to DOJ, the performance work plans may be modified throughout the year in response to occasional changes in policies or priorities. The process is paper-intensive, time-consuming, and susceptible to database entry errors and other inefficiencies. The RFQ at issue here reflects DOJ's decision to convert from the current manual process to a computer-based process.

The RFQ seeks a commercial off-the-shelf or government off-the-shelf web-based EPPAS product suitable for the performance appraisal modernization effort. The RFQ calls for one copy of the EPPAS software, to be installed for use by all DOJ components except the FBI. The agency explains that the FBI's EPPAS system will contain classified information, and FBI protocol therefore requires its system to be housed internally on the FBI Intranet, which does not communicate electronically with the department-wide system. Accordingly, the agency states that it intends to amend the RFQ to add an option to purchase a second copy for use by the FBI. Agency Report (AR), Tab 6, Director of Personnel Staff Affidavit at 6, ¶ 18.

Because the FBI's system must be housed internally, and because the agency wants two identical EPPAS systems, the RFQ required that the contractor quote an EPPAS product capable of being installed on DOJ's internal network. AR, Tab 3, RFQ Statement of Work at 2. In addition, the RFQ required that the product be fully compatible with DOJ's existing hardware and software infrastructure, and designed, developed, documented, tested, and implemented in accordance with DOJ's programming and security standards. *Id.* at 6. The EPPAS must also interface with the National Finance Center, which processes DOJ's payroll, so that salary increases and bonuses flow automatically to the payroll system. *Id.* at 5. Prior to final acceptance, the system must have been fully certified and accredited by an independent source with no technical findings of deficiencies; the certification and accreditation process was to be separately funded. *Id.* at 6.

The agency explains that once both the FBI and the rest of DOJ have EPPAS products in place, there are two times in the annual operation of the two systems that they will need to share information with each other. After review at the component levels within DOJ, and in preparation for the review agency-wide, pertinent data in the FBI's system, absent any classified information, will be transferred via disk from that system to the department-wide system. DOJ then will

² Components include multiple offices, boards, and divisions, and bureaus such as the Federal Bureau of Investigation (FBI), Federal Bureau of Prisons, Drug Enforcement Administration, U.S. Marshals Service, Office of Justice Programs, and the Bureau of Alcohol, Tobacco, Firearms and Explosives.

be able to generate agency-wide reports describing SES performance and monitor compliance with various personnel policies and regulations. Final decisions will be made on SES ratings and salary, and that individual performance information, as well as other compiled data that has not been passed back using the current paper process, will be sent from the agency-wide system to the FBI's system, again through the process of disk transfer. These transfers of information between systems will be performed by downloading information to a disk and uploading the information to the other system, regardless of whether the software systems are identical.

The agency maintains that the risk inherent in those transfers of data is much greater when the two software systems are not identical, unless the burden on the agency is substantially increased in order to reduce that risk to a minimal level. The protester argues that the risk is already minimal, and that any increase in the burden on the agency will be borne by the contractor under the terms of the contract. Thus, Carahsoft asserts that the solicitation is unduly restrictive of competition to the extent that it requires—based on the FBI's need for internal hosting and the agency's decision to use the same software for the FBI and agency-wide—that the software to be used by all DOJ components be the same, internally-hosted software.³

An agency has the discretion to determine its needs and the best way to meet them. USA Fabrics, Inc., B-295737, Apr. 19, 2005, 2005 CPD ¶ 82 at 4. When a protester challenges a specification as unduly restrictive, the procuring agency has the responsibility to establish that the specification is reasonably necessary to meet its needs. 41 U.S.C. §§ 253a(a)(1)(A), (2)(B) (2000). The adequacy of the agency's justification is ascertained through examining whether the agency's explanation is reasonable, that is, whether the explanation can withstand logical scrutiny. A protester's mere disagreement with the agency's judgment concerning the agency's needs and how to accommodate them does not show that the agency's judgment is unreasonable. USA Fabrics, Inc., *supra*, at 4-5.

In this case, DOJ states that it seeks to maximize efficiency in the performance appraisal process for its SES members. The agency argues that both the greater risk involved in the transfer of data between unlike systems, and the duplicate effort and

³ Because, as explained below, we deny Carahsoft's protest that the solicitation improperly limited competition by requiring a software package that can be internally hosted, we need not reach Carahsoft's other bases of protest—*i.e.*, that the agency's decision to procure the certification and accreditation for the new software system separate from the system itself is unreasonable, and that the agency's decision not to allow fixed-price quotations is unreasonable. Carahsoft concedes that it does not offer a software package that can be internally hosted. Accordingly, Carahsoft is not an interested party under our Bid Protest Regulations to challenge either the agency's decision to procure the certification and approval separately or to prohibit fixed-price quotations. See 4 C.F.R. § 21.0(a) (2005).

expense that would be incurred with two systems, create a high level of inefficiency that can be avoided by procuring identical software for both systems. DOJ asserts that any complications arising from that transfer would have the potential to interrupt the smooth functioning of the system, with possibly adverse consequences for the agency in its personnel functions; in addition, the use of different software systems, and the threat of complications, place additional demands on the technical support staff. The protester asserts that the risk inherent in the transfer of data is minimal, regardless of the degree of similarity of the two systems, and that any burden created by using different systems will be borne by the contractor rather than DOJ. As explained below, we conclude that the record here supports the agency's decision to require an internally-hosted system based on its underlying decision to use the same software system for the FBI and the rest of DOJ.

The parties agree that the basic process for the transfer of data is as follows. The data in one system would be unrecognizable by a different system unless the data is coded in such a way that the other system, properly programmed, could understand the code. Thus, programmers, using one of a variety of methods, would code the data collected for the performance appraisals with fields such as "Employee_Name" and "Grade_Level." Care would have to be taken that the labels in the systems corresponded, and that the amount of data that could be stored in each field was the same, so that all of the data from a field in one system would end up in the corresponding field in the other system. Again, care would have to be taken that these fields properly mirrored one another, regardless of whether the systems were identical. The parties agree that the process would have to be performed for transfers of data between any two systems, whether they use the same software or not. If the systems are not identical, however, there is a second step involved in the data exchange; while being transferred from one system to the other, the data must also be translated. While the difference in the level of risk in either case--i.e., transferring and translating data between different systems, or transferring data between systems using the same software--is difficult to quantify, the agency has asserted that the risk is materially greater when using different software systems, a position that on its face appears reasonable. While the protester disagrees with the agency's assessment, it simply has not demonstrated that the agency's position is incorrect or otherwise unreasonable. Thus, we see no basis to question the agency's conclusion that acquiring different software systems would require the agency to assume materially greater risk of error in performing data transfer and translation between the FBI and DOJ systems.

We recognize that the agency concedes that the data transfer and translation risk conceivably can be made minimal though the agency's assumption of administrative burdens and attendant risks associated with management and oversight of multiple contracts. The agency argues, however, that the additional effort required to minimize the risk involved in the data transfer/translation process would place a substantial burden on the agency that unreasonably reduces its efficiency. Specifically, without the ability to require that the systems be the same, the agency would assume additional contract management burdens, because the agency would

potentially be interacting with two different contractors, rather than one. This would be true even if, as the protester asserts, much of the work of the actual maintenance of the system is done by the contractors, since some amount of agency supervision of the additional contractors would be required. Also, certain critical management auditing functions, which by their nature must be performed by the agency, would be duplicated if unlike systems were implemented. Likewise, periodic reprogramming of the system, made necessary by policy or regulatory changes, would have to be done on the two systems separately. As with the initial effort to set up the proper fields for the transfer of data, the agency maintains that this reprogramming work could be performed more efficiently if the systems were identical, and that this work could be done once and then transferred to the other system.

The agency also asserts that the inability to procure the same software system for use in the FBI as well as elsewhere in DOJ would seriously impede the agency's long-range plans to extricate itself from the systems integration business through streamlining the number of different applications that it runs for particular agency functions. The agency argues that, regardless of who does the work of creating and maintaining dissimilar systems, the agency will always be called upon to arbitrate disputes and to serve as the go-between for the contractors. Nor is it clear where liability resulting from problems with the interface between the two systems would lie, if neither contractor accepted liability for such problems and their consequences.

We do not think that Carahsoft has shown that the agency's determination to procure the same, internally-hosted EPPAS software system was unreasonable. The protester's position is essentially that the agency can contract for the services necessary to create and maintain more than one system, and that therefore the agency itself will not be burdened. The protester ignores the duplication of effort to the agency of having two different software systems serviced by two contractors and the reality that the agency, in its oversight capacity, would expend more time monitoring and evaluating the work of two contractors rather than one. In this regard, an agency may place restrictions in a solicitation when its aim is to establish a single contractor's responsibility for a technical system so that the government is relieved of the need to analyze the source of technical problems and to avoid "finger pointing" between contractors, Tucson Mobilephone, Inc., B-256802, July 27, 1994, 94-2 CPD ¶ 45 at 3, or to ensure the technical integrity and performance of a computer system. MASSTOR Sys. Corp., B-211240, Dec. 27, 1983, 84-1 CPD ¶ 23 at 3; see also Pacific Northwest Bell Tel. Co., Mountain States Tel. Co., B-227850, Oct. 21, 1987, 87-2 CPD ¶ 379 at 5 (describing protests that were denied where multiple acquisitions would involve unacceptable technical risks or defeat a requirement for interchangeability or compatibility within a computer system, or where a single contractor was required to ensure the effective coordination of interrelated tasks).

The protester also asserts that the government generally is moving in the direction of external hosting of software, in order to divest itself entirely of its systems management responsibilities, and that from a total business management perspective

it makes sense for the agency to remove the solicitation requirement that the EPPAS be capable of being internally hosted. Whatever the merits of that argument, in this particular case, DOJ is constrained by the requirement that the FBI's EPPAS be housed internally. We believe that the agency had a reasonable basis, given that constraint and its need for efficiency, to conclude that there are certain advantages associated with the purchase of identical software systems in furtherance of the agency's performance appraisal modernization efforts.

The protest is denied.

Anthony H. Gamboa
General Counsel