



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20543

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B-278707

October 2, 1973

Bryan, Jones, Johnson, Hunter & Greene  
P.O. Box 387  
Dunn, North Carolina 28334

Attention: James M. Johnson, Esq.

Gentlemen:

We are in receipt of your letter dated May 21, 1973, and subsequent correspondence, protesting on behalf of Dynaterra, Inc., the award of a contract under request for proposals (RFP) H00604-73-R-0230 to Integrity Management International, Inc. (Integrity).

The RFP requested offers to provide labor and material to perform mess attendant services at various Navy and Marine Corps stations on the Island of Oahu, Hawaii. The RFP contained a Government estimate of the number of man-hours required and other data to aid offerors in preparing their proposals. The Government estimate for the operation was 265,172 man-hours.

Section D of the RFP stated that:

"\* \* \* Submission of manning charts whose total hours fall more than 5% below these estimates may result in rejection of the offer without further negotiations unless the offeror clearly substantiates the manning difference with specific documentation demonstrating that the offeror can perform the required services satisfactorily with such fewer hours."

The eight offers received were:

|                                   | Man-Hours Offered | Difference from Government's estimated Man-Hours (265,172) | Price         |
|-----------------------------------|-------------------|--|---------------|
| Quality Maintenance Company, Inc. | 213,704           | -10%   | \$ 740,943.00 |

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|  | <u>Man-Hours Offered</u> | <u>Difference from Government's estimated Man-Hours (265,172)</u> | <u>Price</u>  |
|--|--------------------------|---|---------------|
| Integrity Management, International, Inc.  | 224,927                  | -15%  | \$ 660,216.97 |
| Jet Services                               | 251,337                  | - 5%  | 748,980.00    |
| Dynaterra, Inc.                            | 251,772                  | - 5%  | 722,803.51    |
| Space Services of Georgia                  | 251,898                  | - 5%  | 818,589.72    |
| Contract Management, Inc.                  | 253,445                  | - 4%  | 869,174.00    |
| H C & K Services and Support Company, Inc. | 264,751                  | 0%  | 777,792.65    |
| Broken Lance Enterprises, Inc.             | 265,468                  | 0%  | 1,136,365.98  |

Integrity, the low offeror, justified its offered man-hours (a 15-percent deviation from the Government estimate) on the basis that (1) it had spent considerable time studying the mess operation and that it had submitted a time and motion study; (2) it was offering more hours than the current contractor used in adequately performing the past year's contract; and (3) no substantive information was presented to refute that performance of these services could be accomplished with manning below the Government's estimate.

Integrity's approach in justifying its manning chart was to break down the Government estimate into days of the week and offer less manning than estimated on those particular days when fewer troops would utilize the mess facilities, i.e., Fridays and paydays.

It is contended that all offerors were not treated equally in that not all offerors were allowed to negotiate on the same terms and conditions as Integrity and that the acceptance of Integrity's offer which was 15 percent below the Government's estimate constituted a change in the specification without notice to the other offerors. It is further

contended that Integrity could not justify the manning deviation from the Government range with specific documentation since only an incumbent contractor would be in such a knowledgeable position.

It is clear from the language of the solicitation that any proposal which could lessen the number of man-hours required and thus reduce the total cost was desirable. However, should any such proposal have exhibited low manning levels (that is, below 5 percent of the Government's estimate), the Government then required that the offeror substantiate its claim that the job could be accomplished at the number of hours it had offered. This unambiguous provision of the solicitation allowed all participants the same opportunity to submit offers deviating from the Government estimate of man-hours, notwithstanding any contention that the procuring activity would not consider such a proposal. Indeed, five of the eight offerors were without the 5-percent range.

While it may be true that an incumbent contractor having first-hand knowledge of the facilities may be able to justify a substantially lesser number of man-hours than that estimated, Integrity was not the incumbent. Furthermore if, as it is contended, only an incumbent could sufficiently justify a lesser number of man-hours, question could be raised as to the restrictive character of the solicitation. In any event, we feel that the procurement agency was in a unique position to examine the feasibility of Integrity's manning chart.

Integrity's justification for deviating from the 5-percent range was based on the degree to which the mess facilities would not be patronized by the troops on certain days and thus would require fewer man-hours to staff. Integrity, in its justification letter of April 12, 1973, states that:

"\* \* \* [W]e are presenting only 'the estimated number of personnel proposed in each space each half hour of a representative weekday and of a representative weekend day/Holiday' on the manning charts which really doesn't allow us to present the complete picture. \* \* \* Certainly, as indicated, we do intend to provide more hours on some days, closely approximating the Food Service Officer's estimates, but on other days we expect to use the number of hours reflected on our manning charts and lower."

We note that Integrity's offer was 40,245 hours less than the Government's estimate, but still exceeded the manning of the incumbent contractor. This fact, while seemingly questioning the Government's estimate, is supportive

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of an offer of substantially lesser man-hours, and therefore could properly have been taken as justification for Integrity's offered manning levels.

It is contended that your client, in computing its proposal, took into account an announced personnel increase in Hawaii to be accomplished by June 1974, while Integrity's offer most probably did not. As we noted, in its offer, Integrity exceeded the incumbent's manning level and furthermore justified its offered man-hours to the contracting officer's satisfaction. Sufficient evidence has not been presented which would indicate that the contracting officer's determination was unreasonable.

For the reasons set forth above, your protest is therefore denied.

Sincerely yours,

Paul G. Dembling

For the Comptroller General  
of the United States