

GAO

Briefing Report to the Chairman,
Committee on Government Operations,
House of Representatives



LM131154

August 1986

ADP ACQUISITIONS

No Improper Actions Found on IRS' Contract for Data Retrieval System



RELEASED

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United States
General Accounting Office
Washington, D.C. 20548

Information Management and
Technology Division

B-223817

August 26, 1986

The Honorable Jack Brooks
Chairman, Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

In response to your February 20, 1986, request, we are providing information on the results of our investigation into the Internal Revenue Service's (IRS) contract award for a major upgrade of its Integrated Data Retrieval System (IDRS). IDRS is the online computer system that supports many IRS functions, including taxpayer service and error correction on tax returns.

IRS initially awarded this contract for the upgrade to Computer Systems and Resources, Inc. on October 2, 1985. The three other offerors protested to the General Services Administration's Board of Contract Appeals (hereafter the Board).

In its January 23, 1986, decision, the Board noted that the awardee did not meet all of the technical requirements of IRS' solicitation. The Board also noted that IRS' pricing evaluation contained substantial errors and that IRS obtained candid, negative comments about one of the offerors but did not allow the offeror sufficient opportunity to rebut them. The Board told IRS to either terminate and recompete the contract or award it to Sysorex Information Systems, Inc., which met the technical requirements. IRS awarded it to Sysorex on February 11, 1986.

As you requested, we investigated this procurement to determine

- whether IRS "wired" the contract for a particular contractor,
- who was responsible for the "repugnant actions"--as cited by the Board--against one of the offerors, and
- whether there was misconduct by contractor or agency personnel.

To accomplish this, we examined how IRS developed its solicitation and how it evaluated the offerors' proposals. We interviewed IRS, Treasury,

contractor personnel, and the Administrative Law Judge who heard the protests presented to the Board. We interviewed, and examined the case file of, IRS' Internal Security employees who had investigated whether the agency may have favored the offeror that hired a former IRS employee from the IRS office that wrote the Request for Proposals and evaluated the offers. We reviewed legal and contracting documents such as IRS' technical scoring sheets. In addition, we studied contractors' expense records for any indication of misconduct.

Our work included examining activities only up to February 11, 1986, the date of the contract's re-award. We did not assess any of the offerors' claims for termination or proposal preparation costs. (These claims were filed after the Board's January 23, 1986, decision to allow such claims.)

We found no evidence that the contract was "wired" for a particular contractor, nor did we find any evidence of bribes or gratuities or misconduct by agency or contractor personnel on this procurement. We also found that IRS' "repugnant actions" toward an offeror did not bias its contract award decision. However, the agency did have major problems on this procurement. Specifically, its pricing evaluation was erroneous and the contract was awarded to an offeror that did not meet IRS' stated technical requirements. We found no indication that these errors were intentional.

On June 24, 1986, we briefed members of your staff on the results of our investigation. This report provides a written record of those results. As subsequently discussed with your office, we neither analyzed IRS' errors on this procurement nor its decision to award the contract to Sysorex rather than recompeting the contract. As requested, the report only describes these errors and IRS' decision to award to Sysorex.

Appendix II is a chronology of major events on this procurement.

Since we found no evidence of "wiring" or misconduct, we plan no further work on this investigation. However, as noted above, IRS experienced problems in conducting this procurement; we plan to address its procurement process for automatic data processing in a future review.

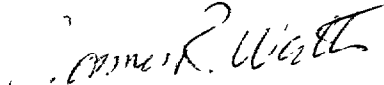
We discussed much of the material in this report with IRS and contractor officials, but, as you requested, we did not request official agency or contractor comments on a draft of this report.

B-223817

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. We will then send copies to the Chairman, Subcommittee on Oversight, House Committee on Ways and Means; other appropriate congressional committees; the Commissioner of Internal Revenue; and the Director, Office of Management and Budget. Copies will also be made available to other interested parties upon request.

Should you desire additional information on our work, please contact me or Theodore Gonter, Group Director, on 275-3455.

Sincerely yours,


James R. Watts
Associate Director

IRS' AWARD OF THE INTEGRATED DATA
RETRIEVAL SYSTEM CONTRACT

OBJECTIVES

As requested in the Chairman's February 20, 1986, letter, we investigated IRS' Integrated Data Retrieval System procurement to determine

- whether IRS "wired" the contract for a particular contractor,
- who was responsible for the "repugnant actions" against one of the offerors (as cited by the Board), and
- whether there was misconduct by contractor or agency personnel.

SCOPE AND METHODOLOGY

We met with contracting, technical, and legal personnel to determine the procurement process followed, if any complaints of bias had occurred during this process, or whether anyone was aware of any complaints of misconduct. This included an interview with the Assistant Director, Office of Information Resources Management, at Treasury, who oversees IRS' automatic data processing (ADP) acquisitions. We also met with the contracting specialist who performed the pricing evaluation and other contracting functions and his supervisor, the Chief of IRS' Acquisition Section.

To understand how the system requirements, contained in the Request for Proposals (RFP), were written and how industry comments on the draft RFP were incorporated, we talked to the Chief of IRS' Communications Software Section and the Assistant Chief of the Data Communications Section. Both wrote and supervised the writing of the draft and final RFPs and reviewed the comments industry had in response.

We also talked to the Project Manager for the procurement and met individually with each member of the technical evaluation team to determine if any outside party influenced their scoring or if any team member seemed to have a bias for or against any of the offerors. In addition, we talked to the Director of the General Legal Services Division; the Chief, Government Contracts Law Branch; and the legal staff who reviewed the draft and final RFPs and who represented IRS before the Board.

We talked to IRS' Internal Security personnel and reviewed their case file on their investigation of a former IRS employee who resigned before the draft RFP was distributed for industry review, but was one of the offerors' employees when the contract was awarded. We also met with this person.

In addition, we met staff from all four of the contractors who submitted proposals and two of the major subcontractors (IBM, a subcontractor under the Sysorex proposal, and Potomac Scheduling, a subcontractor under both the Sysorex and Sperry proposals). This included two company presidents, a vice president and former vice president, and marketing directors. We discussed whether IRS showed any bias for or against any of the offerors, and whether there was any misconduct by agency or contractor personnel.

We met with the Administrative Law Judge who ruled on the protest on this procurement to determine if he knew of any indications of misconduct and to better define the Board's comment concerning IRS' "repugnant actions" toward Sperry. We also talked to U.S. Postal Service investigators since one of the offerors has a small Postal Service contract and the investigators have been examining all Postal Service contracts for possible misconduct.

To help accomplish the three objectives, we also reviewed relevant IRS documentation and documentation, including expense vouchers, for Sysorex, Computer Systems and Resources, Inc. (CS&R), and Sperry. The fourth offeror, M/A Com Information Systems, Inc., refused access to its documentation because officials thought considerable effort might be required for them to separate and identify appropriate records. We also examined expense vouchers for IBM because of its early, major involvement on the winning Sysorex proposal. Documentation we reviewed included:

- IRS documents, such as the RFP, agency procurement request, delegation of procurement authority, technical scoring sheets, correspondence with vendors, internal memoranda, and rationale for awarding to Sysorex;
- legal documents, such as the Board's decision, transcript of the hearings, and exhibits and briefs that were filed; and
- vendor documents, such as expense and travel vouchers, pay records, proposals, and correspondence with IRS and subcontractors.

Our work included examining activities only up to February 11, 1986, the date of the contract's re-award. We did not review any of the offerors' pending claims for reimbursement of termination or proposal preparation costs on this procurement. Nor did we analyze IRS' errors on the procurement or IRS' decision to award the contract to Sysorex.

PROCUREMENT PROBLEMS BUT
NO ILLEGAL ACTIONS FOUND

Although problems occurred in the procurement process, we found no evidence of unethical or illegal actions on the part of IRS or contractor employees.

None of the offerors thought that the RFP's requirements were written to favor any particular offeror. Neither the offerors nor IRS employees reported any knowledge of misconduct. Investigation by IRS' Internal Security, which included taking sworn statements from key individuals, revealed no indication of misconduct by the former IRS employee working for one of the offerors when the contract was awarded.

The technical evaluation team used group scoring, so there were no individual scores to review. However, we talked to each team member; no one felt that any team member seemed to favor a particular offeror without a reasonable basis or that anyone tried to control the scoring. The team did periodically brief the Branch Chief and Assistant Branch Chief of the Data Communications Section on their progress during the evaluation process; no one indicated any pressure to favor a particular offeror.

As your letter noted, IRS did have major problems on this procurement. The Board found that the agency's pricing evaluation was inadequate. For example, IRS overlooked about \$36 million in optional equipment that should have been included in Sysorex' pricing. Problems were discovered when the contract was protested to the Board. IRS hired an accounting firm to recalculate the pricing of all four offerors.

The problems, however, did not alter who won the contract and we found no evidence that they were intentional. The errors were discussed at length during the hearings before the Board. The hearings and our own interviews revealed that the inexperience of the contract specialist who performed the pricing evaluation, the time pressure he thought he was under from IRS' technical managers, and a lack of review by his supervisor caused the errors.

Another major problem on this procurement was that the awardee did not meet all of the agency's technical requirements. Specifically, IRS required a Cobol compiler but it accepted one that did not meet federal standards. The Federal Information Resources Management Regulation requires that agencies accept only compilers that offerors have had validated or scheduled for validation by the General Services Administration. IRS argued that the unvalidated compiler was "functionally equivalent" to federal standards, that the compiler accepted was but a minor part of IRS' requirements, and that it might never be used.

The Board found that CS&R's compiler was not equivalent to IRS' stated requirements and that IRS did not describe the compiler as only a minor requirement. The Board, therefore, ordered IRS to terminate the contract and to either recompile it or award it to Sysorex, a firm that did meet all of IRS' stated requirements.

While IRS' error shows a lack of attention to federal ADP procurement standards, there was no indication that the compiler requirement was meant to favor or exclude anyone.

The compiler issue is important since IRS estimates the Sysorex offer will cost about \$48 million more--if IRS exercises all options under the contract--than the original, winning offer from CS&R. Sysorex stated at the Board's hearings that it could have submitted a proposal more than \$28 million less had it known it did not have to offer a validated compiler. It stated this was because the hardware, and support and services costs would have been less expensive.

"REPUGNANT ACTIONS" DID NOT
APPEAR TO BIAS IRS' CONTRACT AWARD

As noted in your request, the Board's decision states that IRS actively sought candid comments about one of the offerors (Sperry) but did not allow the offeror the opportunity for rebuttal. The Board described this action as repugnant.

IRS asked the offerors to demonstrate the systems being proposed. Each offeror held at least one demonstration at a site of its choice for IRS' technical evaluation team. Team members told us they asked for clients' candid comments at the demonstrations. Sysorex held one of its demonstrations at a major bank. During the demonstration, bank employees voluntarily commented that their previous computer (which happened to be the one offered by Sperry) was inferior to those it now uses. The bank employees did not know that the previous computer was the same brand being proposed to IRS by Sperry. The employees commented that the throughput of this computer was reduced when operated in a certain mode.

Sperry held one of its demonstrations at a client site in Harrisburg, Pennsylvania. At that demonstration, one of the clients' employees made similar comments about the throughput of the computer being offered by Sperry.

IRS raised the throughput issue orally with Sperry and Sperry's major subcontractor, Potomac Scheduling, at a demonstration. Potomac Scheduling's President told us he thought he had adequately explained to IRS how this problem would be resolved. IRS did not find the response convincing. It found the throughput question important enough to cite it as a deficiency when scoring the offer. We believe IRS might have better

emphasized the importance of this matter by including it in written questions it asked of offerors.

The Board's Administrative Law Judge who presided on this case told us that his "repugnant actions" comment referred only to IRS' failure to provide Sperry a better opportunity to rebut the candid comments. The Board's decision states that Sperry's proposal had some deficiencies. It also states it is far from clear that the proposal would have scored as high as Sperry claimed.

IRS DECIDED TO AWARD
WITHOUT RECOMPETITION

On January 23, 1986, the Board ordered IRS to terminate the CS&R contract and stated that the agency could either award the contract to Sysorex Information Systems or recompetite it. On February 11, 1986, IRS awarded the contract to Sysorex.

Many factors were involved in IRS' decision to award to Sysorex. IRS believed that the system would be installed much faster, reducing delays that would endanger its ability to provide timely and quality service to taxpayers. IRS estimated a minimum of 20 additional months to acquire and install a system under a limited recompetition of the contract (that is, with just the four contractors who initially met its requirements). It estimated that a full recompetition--one that was open to other contractors --would take a minimum of 30 months.

IRS officials, however, told us that the consequences of delay seemed so great that even if limited recompetition took significantly less than 20 months, the agency would probably still have decided against recompetition. The consequences included the possible negative effect on taxpayer services and the high cost of maintaining IRS' aging terminals.

A key disadvantage to IRS in this decision was that the Sysorex contract would cost about \$5.5 million more than was budgeted for fiscal year 1986 and about \$12 million more than was budgeted for fiscal year 1987.

IRS decided that it was in the best interest of the public and the tax system to award the contract to Sysorex.

Request Letter

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February 20, 1986

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The Honorable Charles A. Bowsher
 Comptroller General
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 Washington, D.C. 20548

Dear General:

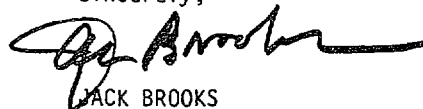
The General Services Administration's Board of Contract Appeals recently ruled that an Internal Revenue Service (IRS) \$100 million contract to Computer Systems & Resources, Inc. (CS&R), was awarded improperly and ordered the IRS to terminate CS&R's contract for convenience to the government. In ordering the termination of the contract, the Board had concluded that of the bidders in the final evaluation, the only firm who met the stated requirements of IRS was Sysorex/IBM who was also the highest bidder (by about \$50 million). The other three bidders were found by the Board to have submitted proposals that were deficient.

In rendering its decision, the Board was severely critical of the IRS in its conduct of the procurement. For example, IRS violated its delegation of procurement authority by accepting a COBOL Compiler that was only functionally equivalent to the level of the Federal Standard COBOL that IRS had originally selected. Also, the technical evaluation team actively sought information that was detrimental to one of the bidders and did not allow the vendor an opportunity to refute the information. According to the Board, "This sort of conduct is repugnant to any notion of fair and honest dealing" Finally, the contract specialist made numerous errors in reviewing the price proposals. For example, the Board noted that the contract specialist "did not review the price proposals, nor did he check them for consistency"

A review of the Board's decision raises serious questions of propriety regarding the conduct of this procurement. I therefore request that you initiate an immediate investigation to determine who is specifically responsible for the repugnant actions referred to by the Board, if the contract was wired for a particular vendor, and if there is any evidence of improper activity by agency or contractor personnel, including gratuities, bribes or other such actions. As with all requests for investigations from this Committee, I would ask that the same investigatory techniques be used as was done in the Deloitte, Haskins & Sells review. The results of your work should be available to the Committee no later than June 1, 1986.

Wish best wishes, I am

Sincerely,



JACK BROOKS
 Chairman

Chronology of Events

NOV. '82	IRS ' FEASIBILITY STUDY CONCLUDES UPGRADED EQUIPMENT NEEDED
FEB. '83	AGENCY PROCUREMENT REQUEST FOR ADP EQUIPMENT AND SERVICES SENT TO GSA
MAR. '83	GSA GRANTS DELEGATION OF PROCUREMENT AUTHORITY TO IRS
DEC. '83	IRS DISTRIBUTES DRAFT REQUEST FOR PROPOSAL FOR REVIEW IRS RECEIVES INDUSTRY COMMENTS ON DRAFT RFP
MAY '84	IRS ATTORNEYS REVIEW RFP
JUL. '84	TREASURY REVIEWS RFP
AUG. '84	IRS ISSUES RFP
NOV. '84	IRS HOLDS BIDDERS CONFERENCE
JAN. - MAR. '85	IRS CONDUCTS TECHNICAL EVALUATION OF INTITIAL OFFERS
MAR. - APR. '85	VENDORS HOLD DEMONSTRATIONS OF EQUIPMENT
JUN. '85	IRS CALLS FOR BEST AND FINAL OFFERS
JUL. '85	IRS CONDUCTS TECHNICAL EVALUATION OF BEST AND FINAL OFFERS
OCT. '85	IRS AWARDS CONTRACT TO CS&R
OCT. - NOV. '85	SYSOREX, SPERRY, AND M/A COM PROTEST AWARD
JAN. '86	GSA BOARD OF CONTRACT APPEALS ORDERS IRS TO TERMINATE CS&R CONTRACT AND TO EITHER RECOMPETE OR AWARD CONTRACT TO SYSOREX
FEB. '86	IRS AWARDS CONTRACT TO SYSOREX CS&R APPEALS DECISION TO THE U.S. COURT OF APPEALS AND REQUESTS STAY
MAR. '86	CS&R'S MOTION FOR A STAY DENIED
MAY '86	CS&R WITHDRAWS APPEAL

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