

Amazon.com lawsuit criticizes handling of CIA contract

August 22 2013, by Jay Greene, The Seattle Times

Amazon Web Services' battle with IBM over a \$600 million contract with the Central Intelligence Agency has largely played out behind the closed doors of law offices and conference rooms.

On Tuesday, though, Amazon.com's month-old suit to prevent the government from opening the contract up to rebidding was made public. Even with plenty of redactions over pricing data and trade secrets, the filing made clear Amazon's displeasure at the prospect of giving rival IBM another shot at the lucrative deal.

Amazon labeled IBM's protest of the contract award "untimely and meritless," arguing that the tech giant didn't have the technical wherewithal to fulfill the needs of the Web-based computing services the CIA wants. And Amazon argued that the determination by the Government Accountability Office, which reviewed the contract, to reopen bidding was "arbitrary and capricious" and violates federal contracting law.

The dispute stems from a contract that seemed unlikely for AWS, an Amazon division that rents data storage and computer server time to corporations and agencies to run core business processes. AWS has carved a lucrative niche in the world of corporate computing, offering services to businesses at a fraction of the cost of owning and running their own computers.

AWS has plenty of business clients, including Amazon.com itself. But

handling the ultra-secure operations of the CIA was not the sort of business that the division had taken before.

So when AWS won the contract to build the Web-based infrastructure for the CIA in January, IBM, a losing bidder, protested. IBM took its case to the GAO, which can review contract bidding processes at government agencies.

The GAO agreed, in part, with IBM in June. The GAO found that Amazon's bid was technically superior, even though IBM's bid to build the technology was significantly lower. But the GAO also agreed with IBM that the CIA did not properly evaluate IBM's bid in a few narrow, technical matters, including the ability to auto-scale, which instantaneously adds or removes computing power as needed.

The CIA decided to follow the GAO's recommendations.

"In response to the GAO decision, the CIA has taken corrective action and remains focused on awarding a cloud contract for the intelligence community," said agency spokesman Christopher White.

That determination triggered Amazon's suit against the United States last month, a suit that was sealed until Tuesday. Amazon's central arguments are that IBM's revised pricing on one piece of the contract in an untimely manner, making its new bid moot. And Amazon argues that IBM doesn't have the capability to deliver the type of Web-based computing that the CIA seeks - so even if IBM's arguments had merit, they wouldn't affect the outcome of the contract.

For its part, IBM said Amazon had its chance to defend its bid before the GAO and lost.

"Amazon had a chance to air its point of view fully and fairly at the

GAO," IBM spokesman Clint Roswell said.

The CIA is moving forward separately on soliciting new bids for the contract. According to Amazon's filing, final revisions for those bids were due last Friday.

IBM is making the case that it has the experience to deliver the type of secure Web-based technology, known as cloud services, that the agency needs.

"Unlike Amazon, IBM has a long history of delivering successful transformational projects like this for the U.S. government," Roswell said.

The chances seem dim that IBM will prevail. The CIA wants to move to the sort of cloud-based computing where AWS has made its mark.

"I don't think there is a high likelihood that Amazon will lose this contact," said James Staten, an analyst with the research firm Forrester.

But it is possible that IBM could eke out a piece of the [contract](#) in the reopened bidding process. In its suit, Amazon anticipates that possibility and argues against it.

"Even if the court should find some corrective action warranted, it should not permit IBM the undeserved windfall opportunity to make its otherwise uncompetitive, materially deficient proposal competitive now that it has AWS's price and ratings in hand," Amazon argued in its filing.

The company declined to comment beyond its suit.

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