

Final Order No. OGC/2000/01-0060 Date: **8/13/01**

FILED

Agency for Workforce Innovation

AGENCY CLERK

Veronica Moss, Agency Clerk

By: Veronica Moss

**STATE OF FLORIDA
AGENCY FOR WORKFORCE INNOVATION**

UNISYS CORPORATION,

Petitioner,

AWI Case No.: 2000/01-0060

vs.

STATE OF FLORIDA, AGENCY
FOR WORKFORCE INNOVATION,

Respondent.

FINAL AGENCY ORDER OF DISMISSAL

THIS MATTER came before the Director of the Agency for Workforce Innovation, in accordance with Chapter 120, Florida Statutes and Rule Chapters 28-106 and 28-110, Florida Administrative Code, for consideration of the Petitioner's "Formal Protest and Request for Hearing," dated August 6, 2001.

APPEARANCES

For Petitioner: W. Robert Vezina, III
Mary Piccard Vance
Vezina, Lawrence & Piscitelli, P.A.
318 North Calhoun Street
Tallahassee, Florida 32301

For Respondent: Michelle M. Austin
Agency for Workforce Innovation
The Atkins Building, Suite 300
1320 Executive Center Drive
Tallahassee, Florida 32399-2250

Pursuant to this Final Order, the Agency for Workforce Innovation (AWI) denies the petition of Unisys Corporation, as further setout below.

Statement of Facts

1. On April 27, 2001, AWI published a request for proposals to design, develop, construct, integrate, install and implement a One Stop Management Information System (:OSMIS”).
2. On May 31, 2001, seven companies submitted proposals in response to the RFP.
3. On July 13, 2001, the Negotiation Team met and ranked the final three contenders. They were Unisys, Accenture and Gulf.
4. The order of ranking by the Negotiation Team was: (1) Gulf, (2) Accenture and (3) Unisys.
5. On July 24, 2001, the “Bid/Proposal Tabulation” was posted. See attachment. The purpose of the posting was to indicate the intended award of the contract to Gulf.
6. On July 27, 2001, Unisys filed its notice of protest, and on August 6, 2001, Unisys filed a “Formal Protest and Request for Hearing,” pursuant to section 120.569 and section 120.57, Florida Statutes.

7. “The Bid/Proposal Tabulation” shows that Unisys was eliminated during Phase III of the negotiations.

8. The successful vendor was chosen during Phase IV. At that time, as indicated on the Bid/Proposal Tabulations, only Gulf and Accenture were contenders.

9. At the time of the posting, Unisys was no longer a contender and was not being considered for the award.

10. At the time of the posting, Accenture was the second of two remaining contenders, and, thus, the only other candidate eligible for the award of the contract.

11. During Phase IV of the selection process, Accenture was second in line to receive the contract award.

12. As provided in section 120.57(3), Florida Statutes, the parties met to discuss resolution by mutual agreement.

13. There was no agreement during the course of the meeting.

FINDINGS OF LAW

14. Persons “affected adversely” by an agency’s decision or intended decision in a bid proceeding are provided in section 120.57(3), Florida Statutes, the opportunity to protest and challenge the action of the agency of the intended action.

15. In order to establish standing to contest an award of a contract, the unsuccessful bidder must establish that it has a substantial interest to be determined by the agency. A vendor, who is not in line to be awarded a bid, does not have a substantial interest and thus, cannot protest an award of a contract. See Preston Carrol Company, Inc. v. Florida Keys Aqueduct Authority, 400 So. 2d 524, 525 (Fla. 3d DCA 1981).

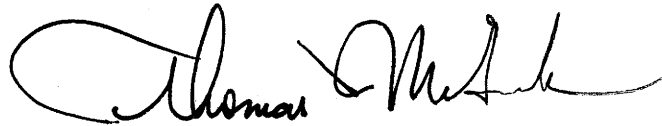
16. In the instant case, given that Unisys would not have been awarded the bid, even if the award to Gulf were set aside, Unisys does not have a substantial interest, and, thus, does not have standing to contest the award of the contract. See Peterson v. Florida Department of Community Affairs, 386 So. 2d 879 (Fla. 1st DCA 1980).

ORDER

Based on the foregoing, it is hereby **ORDERED**:

That the Formal Protest and Request for Hearing filed by UNISYS Corporation is DISMISSED.

DONE AND ORDERED in Tallahassee, Florida, this 13th of August 2001.



Thomas D. McGurk, Director
Agency for Workforce Innovation

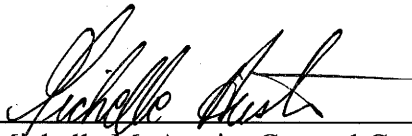
NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION. Pursuant to §120.68(2), Florida Statutes, Judicial Review of this proceeding maybe instituted by filing a notice of appeal in the district court of appeal in the appellate district where the Agency maintains its headquarters or where a party resides. Such notice of appeal must be filed with the district court of appeals within thirty (30) calendar days of the date this

order is filed in the Official Records of the Agency for Workforce Innovation, as indicated in the certification of the Agency Clerk below, or further review will be denied.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and a true copy of the foregoing was served upon W. Robert Vezina, III and Mary Piccard Vance, Vezina, Lawrence & Piscitelli, P.A., 318 North Calhoun Street, Tallahassee, Florida 32301, by hand delivery, this 13th day of August 2001.



Michelle M. Austin, General Counsel
Florida Bar No.: 0088994
Agency for Workforce Innovation
The Atkins Building, Suite 300
Tallahassee, Florida 32399-2250
Telephone: (850) 488-7228

BID/PROPOSAL TABULATION

BID TITLE: OSMIS

BID NUMBER: 003-01/RI-RFP

OPENING DATE AND TIME: June 1, 2001 @ 3:00 pm

Failure to file a protest within the time prescribed in section 120.53(5),
F.S., shall constitute waiver of proceedings under Chapter 120, F.S.
posting time from date and time: 3:45pm; July 24, 2001 through
3:45pm; July 27, 2001

BIDDERS:	LETTER OF INTENT	WITHDRAWN	RESPONDED	PHASE I NEGOTIATION	PHASE II NEGOTIATION	PHASE III NEGOTIATION	PHASE IV NEGOTIATION
1 Satyam	X		X	X			
2 Gulf	X		X	X	X	X	X
3 Idea	X		X	X			
4 ETP	X						
5 Deloitte	X		X	X	X		
6 Encore	X	X					
7 Compaq	X		X	X			
8 Covansys	X	X					
9 Accenture	X		X	X	X	X	X
10 IBM	X						
11 Unisys	X		X	X	X	X	
12 Geographic	X						

*Hi-lighted Vendor is the Intended Award

FAILURE TO FILE A PROTEST WITHIN THE TIME PRESCRIBED IN SECTION 120.57(3), FLORIDA STATUTES, SHALL CONSTITUTE A WAIVER OF PROCEEDINGS UNDER CHAPTER 120, FLORIDA STATUTES. ALL BIDS/PROPOSALS ACCEPTED BY THE STATE ARE SUBJECT TO THE STATE'S TERMS AND CONDITIONS SUBMITTED BY THE BIDDERS/PROPOSERS ARE REJECTED AND SHALL HAVE NO FORCE AND EFFECT. OFFERS FROM THE VENDORS LISTED HEREIN ARE THE ONLY OFFERS RECEIVED TIMELY AS OF THE ABOVE OPENING DATE AND TIME. ALL OTHER OFFERS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, ARE HEREBY REJECTED AS LATE.

NOTICE OF BID/PROPOSALS PROTEST REQUIREMENT - ANY PERSON WHO FILES AN ACTION PROTESTING A DECISION OR INTENDED DECISION PERTAINING TO CONTRACTS ADMINISTERED BY THE DIVISION OF A STATE AGENCY PURSUANT TO SECTION 120.57(3), FLORIDA STATUTES SHALL POST WITH THE DIVISION OR THE STATE AGENCY AT THE TIME OF FILING THE FORMAL WRITTEN PROTEST, A BOND PAYABLE TO THE DIVISION OF STATE AGENCY IN AN AMOUNT EQUAL TO 1 PERCENT OF THE DIVISION'S OR STATE AGENCY'S ESTIMATE OF THE TOTAL VOLUME OF THE CONTRACT OR \$5,000, WHICHEVER IS LESS, WHICH BOND SHALL BE CONDITIONED UPON THE PAYMENT OF ALL COSTS WHICH MAY BE ADJUDGED AGAINST HIM IN THE ADMINISTRATIVE HEARING IN WHICH THE ACTION IS BROUGHT AND IN ANY SUBSEQUENT APPELLATE COURT PROCEEDING. FOR PROTEST OF DECISIONS OR INTENDED DECISIONS OF THE DIVISION PERTAINING TO AGENCIES REQUESTS FOR APPROVAL OF EXCEPTIONAL PURCHASES, THE BOND SHALL BE IN THE AMOUNT EQUAL TO 1 PERCENT OF THE REQUESTING AGENCY'S ESTIMATE OF THE CONTRACT AMOUNT FOR THE EXCEPTIONAL PURCHASE REQUESTED OR \$5,000, WHICHEVER IS LESS. IN LIEU OF A BOND, THE DIVISION OR STATE AGENCY MAY, IN EITHER CASE, ACCEPT A CASHIER'S CHECK OR MONEY ORDER IN THE AMOUNT OF THE BOND. **FAILURE TO FILE THE PROPER BOND AT THE TIME OF FILING THE FORMAL PROTEST, WILL RESULT IN A DENIAL OF THE PROTEST.**