

by Jack Stout

To Bid Or Not To Bid?

The December 1986 "Interface" column ("Strong Words and Weak Arguments") dealt with the complex process of deciding whether a given public service can best be delivered by way of an "in-house" government operation (i.e., socialized production) or by way of contracting with a private firm (i.e., privatized production). If the decision is to "privatize," a new question is raised: Should the contract be awarded by bid competition or by another method, such as sole source negotiation?

Bid competition is a management tool. It is not, however, a universal management tool. In some situations, properly conducted bid competition attracts the most qualified firms and the best possible service offerings for the dollars available — but not always.

The use of a hammer for the work of a saw can only disappoint. In the same way, inappropriate use of bid competition can turn good service bad, bad service worse, and has actually been known to lead the public officials involved to seek entirely new careers.

Jack Stout has been at the forefront of innovations in the design and implementation of EMS systems for the past dozen years. His skill-building workshop on Contracting Paramedic Ambulance Services will be held March 16-18, 1988 in Miami, Fla. If you have a question, a problem, or a solution related to the public/private interface in prehospital care, address your letter to "Interface," JEMS, P.O. Box 1026, Solana Beach, CA 92075.

Throughout the EMS industry, bid competition is regularly used when other procurement methods are clear-

ly in order, and is often not used when it is clearly the method of choice.

The aim of this article is to present





The EMS Degree Program

at
THE GEORGE WASHINGTON UNIVERSITY
SCHOOL OF
MEDICINE AND HEALTH SCIENCES

offers
**A
B.S. Degree
in
Emergency Management**

CONCENTRATED COURSEWORK AVAILABLE IN:

**Management/Administration
Education Topics
Occupational Health & Safety**

- Paramedic Certification Courses Available
- Day & Evening Classes
- Full or Part-Time Enrollment
- Tuition Assistance Available

For more information, call or write:

EMS Degree Program
2140 Pennsylvania Avenue, NW
Washington, DC 20037
(202)676-4372

Circle #48 on Reader Service Card

CAREER POSITIONS

Paramedic System Status Controller

Rapidly growing, innovative, Florida-based HCA affiliate is seeking qualified Paramedic/System Status Controllers for communications positions.

Send resumes to:

Medic One Ambulance Service, Inc.
P.O. Box 2913
Largo, FL 34294-2913
Attn: Russell Cronk
Or Call Collect
(813) 535-1515

Circle #49 on Reader Service Card

INTERFACE

basic criteria for judging whether conditions are right for bid competition. (In an upcoming column, I'll discuss criteria for choosing a specific *type* of bid competition from the smorgasbord of options available.)

What is an "EMS Procurement"?

For purposes of this article, an "EMS procurement" is any process whereby a government agency awards to a private firm or other government agency legally enforceable rights and responsibilities for provision of EMS to a defined population. The population to be served may be geographically defined (e.g., "Podunk County") or specified in other ways (e.g., "patients of Podunk VA Hospital" or "members of Hi-Ho HMO").

To meet the definition of an EMS procurement, some form of legal "consideration" must exist. That is, the government agency must offer something of value in exchange for a legally binding commitment to furnish service. Such consideration need not be money. For example, a state or local government agency which grants a certificate of need to serve a defined geographic area, and substantially limits the number of providers allowed those same "market rights," is offering consideration of substantial business and monetary value in exchange for certain commitments. While such transactions are often viewed as a "licensing" function rather than as a "procurement," they are actually a form of "group purchasing" activity and are best managed as such.

Why Resort to Bidding?

Bid competition in an industry as complex as the EMS industry entails substantial work and risk for the public officials involved. Before dealing with the question of whether to bid, let's first examine the motives which underlie that decision – i.e., *why* go to bid?

Because It's the Law – In some states, and under special circumstances such as a mandatory court order, there may not be a choice. Where the law requires use of bid competition for awarding contracts or restricted market rights, the only decision to be made is to select the type of bid competition to be used. (Oddly enough, some states require that

local governments must use bid competition to award market rights to a private firm, but not if the government elects to "contract with itself" – i.e., fund its own government-operated service.)

To Steer Clear of Anti-Trust Violations – The intent of antitrust law is to protect competition – not competitors. (See "Interface" antitrust series, Feb., Mar., and April, 1986 *JEMS*.) It is not, however, the intent of anti-trust law to preserve economically ineffective forms of competition. Since street-level "retail" competition in EMS has never resulted in high quality service at reasonable cost in any market (except in a few cases where monopolies have evolved), an argument can be made that replacing ineffective "retail competition" with a more effective type of competition (i.e., "wholesale competition") is actually pro-competitive – a reasonable restructuring of the form of competition that is actually in concert with the spirit of antitrust law.

To Avoid Being Held Hostage – One of the first major EMS procurements managed by our firm resulted from the incumbent provider's growing demands for subsidy, and the concurrent threat that without more subsidy, the system would collapse. Faced with such a situation, the government officials saw bid competition as a way of determining whether the subsidy demands were reasonable or simply the result of greed or inefficiency. (A bid process is also an opportunity to redesign "performance security" aspects of the business relationships to eliminate the possibility of being held hostage in the future.)

To Save Local Tax Dollars – Over the next several decades, nearly every sector of the U.S. economy will be challenged to work harder and smarter (see *Business Week*, "Wake Up, America", Nov. 16, 1987). The EMS and fire service industries will not be exempt from this challenge. Perhaps the most common reason for going to bid for emergency services today is the growing need to squeeze more public service from fewer tax dollars. The range of efficiency and productivity among our industry's public and private providers is surprisingly broad. Effectively conducted bid competition allows better-managed firms a well-earned chance to expand their markets to benefit the public and help strengthen our economy.

To Reduce Liability – Where government EMS programs are self-insured and not fully exempt from tort liability, the risk of expensive damage awards

against local government can be substantial. Contracting with a fully qualified and well-insured private firm which indemnifies and holds harmless the government from such claims can dramatically reduce the risk of charging taxpayers for the errors of their government.

There are, of course, less noble reasons for going to bid. Some public officials have used bid competition to obtain free consulting from the industry experts, rejecting all proposals but using the information received to improve existing operations. In other cases, going through the motions of bid competition has given the appearance of credibility to decisions already made.

The process of bidding an EMS contract is time-consuming, complex, costly, somewhat traumatic for everyone involved, and not without risk — i.e., you could make things worse. A powerful management tool, bid competition should be employed carefully, sparingly, and only when the motive is legitimate and conditions are right.

When Conditions Are Right

The following is a check-list for determining whether the conditions exist for successful bid competition. Do not proceed unless the results of these fundamental tests are positive.

Test #1: Is there reason to believe that a new provider will provide better service at current costs, or equal service at a lower cost? Put another way, if no other community with comparable market conditions enjoys better service than you're already receiving at an equivalent cost, or equal service at a lower cost, then there is little or no chance that bid competition will make anything better, and it might make things worse. Useful cost comparison often requires adjustments to account for differing ratios of subsidy to fees (see "Comparing Ambulance Rates," July 1985 *JEMS*). Clinical sophistication, response time reliability, and economic stability must be accurately compared.

Test #2: Is there reason to believe that our EMS market is capable of attracting well-qualified bidders? As I've written before, in a contest of losers, even the winner is a loser. Market size, demographic conditions, the area's "livability," applicable third party reimbursement policies, and many other factors affect your market's ability to attract truly qualified bidders. In some cases, it may be necessary to "pool the buying power" of several small communities to create a market opportunity of sufficient size to attract qualified firms. Proximity to

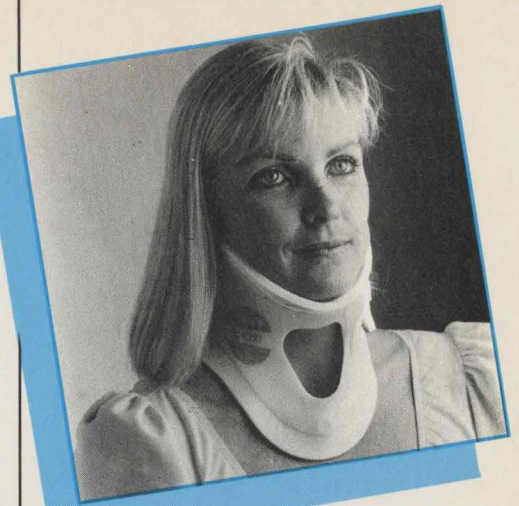
well-served, larger EMS markets may also be a positive factor if the outlying community can be served as a satellite of a larger operation to offset the substantial fixed costs and overhead required for quality EMS.

Test #3: Is there reason to believe that our business proposition and procurement methods are capable of attracting qualified firms? Officials are advised to keep in mind that, because of the growing demand for efficiently provided, high-quality EMS, the most qualified firms now find themselves in a seller's market. Such firms will rarely participate in "free-for-all" bid competition — i.e., procurements failing to prescreen bidders' qualifications before submission of proposals. Inadequate protection of market rights, too-short length of contract, poorly specified renewal rights, one-sided provisions for dispute resolution, unrealistic business expectations, even a seriously unstable political environment . . . these and other factors can completely counter the intrinsic desirability of any EMS market.

If the results of all three tests are clearly positive, then bidding may be in order and, if properly conducted, should produce beneficial results. On the other hand, if any test result is negative or uncertain, bid competition should not be attempted.

Finally, if your current provider is poorly qualified to go up against first class competitors in bid competition, you may wish to consider allowing an opportunity for the local provider to upgrade its service capabilities and to improve its track record performance prior to facing bid competition deliberately designed to attract the strongest competitors. To decide this issue, another test is in order: *Is the existing provider's lack of credentials due to flaws in the structure of your EMS system (e.g., mandatory use of multi-tiered operations, use of call rotation, cream skimmers in the market, etc.), or has the existing provider been taking it easy while the best in the business were passing him by?*

If your incumbent provider has been effectively prevented from developing state-of-the-art performance capabilities by flaws in your own system structure, a reasonable opportunity to make up lost ground (by way of a negotiated interim contract) is surely in order. However, many of today's EMS firms have made a conscious business decision to forego the cost of progress in favor of short-term profits. Such firms have already reaped the short-term profits from that decision, and should now be permitted to reap its long-term consequences. □




DOES YOUR COLLAR MEASURE UP?

Does it have a . . .

BABY NO-NECK™ SIZE ?
EASY SIZING METHOD ?
VIDEO TRAINING TAPE ?*
PUBLISHED X-RAY STUDIES ?

STIFNECK™ DOES.

* Copyright 1987

 **California Medical Products**
2841 E. 19th Street, Long Beach, CA 90804
213-494-7171

Circle #50 on Reader Service Card