

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-186099

DATE: September 27, 1976  
61558

MATTER OF: 3M Business Products Sales Inc.

## DIGEST:

97965

Protest against alleged restrictive specifications for high speed copiers is denied because at least two firms could have submitted responsive bids (only one bid) and copiers which would have been offered by protester would not have complied on reprourement with protested electrical specification requirement found not to be unduly restrictive. However, recommendation made that Air Force reevaluate minimum needs with regard to protested copy capability and first copy speed specification requirements with view toward not exercising options under contract if needs were overstated.

The Air Force Logistics Command (AFLC) issued invitation for bids (IFB) No. F33600-76-B-0267 on February 25, 1976, for the rental of high speed copiers and related support services at eight Air Force installations.

Prior to bid opening, 3M Business Products Sales Inc. (3M) protested to our Office that the specifications contained in the IFB were restrictive of competition and precluded all but one vendor from competing.

The AFLC solicited bids from 36 firms but only one bid was received, that being from the incumbent contractor, Addressograph Multigraph Corporation (AM). While the protest of 3M was filed prior to bid opening, the AFLC determined that an award prior to resolution of the protest was in the best interest of the Government and AM was awarded the contract on June 25, 1976.

3M's protest is based on the allegation that the combination of four requirements in the specifications were of such a restrictive nature that only one copier on the market could meet all four, namely the AM 5000, upon which AM's bid was based.

The four specifications which 3M complains of are:

B-186099

"Operate on installed nondedicated 110/115  
volt, electrical circuits of not more than 20 amperes.

\* \* \* \* \*

"A copy counter which may be set for the  
desired number of copies and which will return to  
zero or one as the copies are reproduced.

\* \* \* \* \*

"Be capable of producing, with a single  
insertion of the original, at least 40 copies per  
minute. For the purpose of computing time for  
reproducing copies, the time will begin when the  
first copy is reproduced.

\* \* \* \* \*

"\* \* \* no delay of more than 8 seconds for  
a normal image before producing the first copy after  
the initial warm up."

AFLC justifies the electrical requirement by stating that it allows maximum mobility in relocating the copiers without requiring the expense of installing new electrical circuits specifically for the copier. AFLC states that the other copier currently on the market which could meet the specifications in addition to the AM 5000, the SCM Model 412, complies with this requirement. 3M disputes this contention and has submitted literature on the SCM Model 412 which shows electrical requirements of 120 volts as opposed to 110/115 volts. AFLC rebuts this assertion by stating that the specification only required that the copier operate on 110/115 volts and because there is a normal 10-percent working range over and below the stated voltage, the SCM Model 412 meets the specification. We agree with this conclusion and the AFLC justification for operation on a non-dedicated line. Therefore, there are at least two copiers on the market which meet this electrical specification and the other protested requirements.

The reverse copy counter is required on any offered copier as a cost saving device according to the AFLC. This requirement precludes the inadvertent reproduction of more copies than intended by the

user who neglects to reset the counter from a prior use. While 3M disputes the amount of cost savings claimed by AFLC in justifying the requirement, 3M concedes that the counter will reduce waste to some degree.

Concerning the 40 copy per minute (CPM) required capability, AFLC attempts to demonstrate the cost savings exhibited by this copy capability with that of a copier with a 25 CPM capability. A 25 CPM capability is the minimum for a high speed copier as defined in Air Force Regulation 6-1 (C3), June 10, 1974. By using 40 CPM as compared with 25 CPM, AFLC cites an increased production of 60 percent, thereby reducing the time spent reproducing copies and waiting in line to use the copier.

Finally, AFLC justifies an 8-second first copy time by calculations which show that even if a 9-second first copy time was required, assuming an average of 60 million copies per year, the additional 1-second per first copy would entail an additional 16,666 man-hours which is translated into dollar savings. 3M's calculations, in rebuttal, show a saving of 5,555 man-hours.

The determination of the needs of the Government and the methods of accommodating such needs is primarily the responsibility of the contracting agencies of the Government. 38 Comp. Gen. 190 (1958), and Manufacturing Data Systems Incorporated, B-180608, June 28, 1974, 74-1 CPD 348. We recognize that Government procurement officials, who are familiar with the conditions under which equipment has been used in the past and how it will be used in the future, are generally in the best position to know the Government's actual needs and, therefore, are best able to draft appropriate specifications. Particle Data, Inc., B-179762, B-178718, May 15, 1974, 74-1 CPD 257. Consequently, we will not question an agency's determination of what its actual needs are unless there is a clear showing that the determination has no reasonable basis. Particle Data, Inc., *supra*. On the other hand, we have recognized that procurement agencies are required to state specifications in terms that will permit the broadest field of competition within the minimum needs required and not the maximum desired. 32 Comp. Gen. 384 (1953).

B-186099

We believe that AFLC has adequately justified the electrical requirements and the reverse copy counter as minimum needs not unduly restrictive of competition.

At our request, 3M submitted material to our Office on the copiers it would have offered if the specifications did not include the requirements complained of. However, 3M's material shows that these copiers require a dedicated electrical circuit as opposed to the nondedicated circuit required by the electrical specification which we have found not to be unduly restrictive of competition. Therefore, notwithstanding our discussion below on copy capability and first copy speed, 3M would still have been unable to submit a responsive bid on reprourement. Accordingly, and since at least two firms could have submitted responsive bids, the protest of 3M is denied.

However, it is necessary to make certain observations regarding the 40 CPM requirement and the 8-second first copy time.

In a report to our Office on the protest, AFLC's cost calculations to support the above requirements are based on the premise that there is a yearly requirement of 60 million copies and that the average user makes a run of 3 copies. When our Office inquired as to the basis for using the average of 3 copies, AFLC responded, as follows:

" \* \* \* THE AVERAGE COMPOSITE RUN FIGURE OF 3, WHICH WAS USED IN OUR COMPUTATIONS, WAS BASED UPON AN ANALYSIS UTILIZING COPIER PRODUCTION DATA FOR THE PERIOD OCTOBER-DECEMBER 1975. THE ANALYSIS RESULTED IN THE FIGURE 3.18 BUT WAS ROUNDED OFF TO 3 FOR COMPUTATIONAL CONVENIENCE. HOWEVER, THE INFORMATION CONTAINED IN THE REPORTS USED IN THE ANALYSIS DID NOT CONTAIN PRODUCTION DATA FROM COPIERS EQUIPPED WITH AUTOMATIC COUNTERS. FURTHER, PRODUCTION DATA REPORTED ON COPIER LOGS LOCATED WITH THE MACHINES ARE KNOWN TO BE HIGHLY SUSPECT.

\* \* \* \* \*

"SINCE THE PREPARATION OF THE ANALYSIS, THE COPYING PROGRAM HAS CHANGED SIGNIFICANTLY THROUGHOUT THE

B-186099

COMMAND. FOR INSTANCE, THE MAXIMUM NUMBER OF COPIES THAT CAN BE REPRODUCED PER ORIGINAL HAS BEEN ESTABLISHED AS 10 AT WRIGHT-PATTERSON AFB AND TO A MAXIMUM OF 40 AT TINKER AFB. ALL LIMITATIONS ARE ESTABLISHED LOCALLY. BASED ON THE FOREGOING, OUR BEST ESTIMATE OF THE CURRENT COMMAND-WIDE AVERAGE NUMBER OF COPIES PER ORIGINAL WOULD BE SUBSTANTIALLY HIGHER THAN THE 3 USED IN OUR COMPUTATIONS OF LAST APRIL."

AFLC's cost calculations are based on a 40 CPM copier, producing 3 copies in 11 seconds as compared with a 25 CPM copier delivering 3 copies in 12.8 seconds. When these facts are considered with the maximum number of copy limitations on machines at various installations, it appears that AFLC might very well have overstated its minimum needs to some degree. For example, at Wright-Patterson Air Force Base, with a maximum of 10 copies per original, the 40 CPM from the single insertion of an original is meaningless as an employee will never make 40 copies.

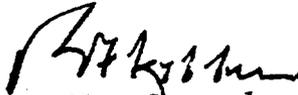
Further, the speed with which 3 copies is produced appears to be the critical factor in relation to time spent at the copier, as opposed to copies per minute. 3M contends, we believe with merit, that the actual minimum needs of AFLC is 3 copies in 11 seconds, not 40 CPM. 3M has submitted figures which show numerous copiers currently on the market, other than the AM 5000 and the SCM Model 412, which, while not producing 40 CPM, are capable of producing 3 copies in less than 11 seconds while meeting the other specifications.

Moreover, if the 3 copies in 11 seconds represents the minimum needs of the AFLC, this renders the additional requirement that the copier produce the first copy within 8 seconds unnecessary as none of the copiers which can produce 3 copies in 11 seconds require 8 seconds to produce the first.

Accordingly, we recommend that AFLC reevaluate its minimum needs with regard to copy capability and first copy speed. If those requirements in the IFB are found to have been overstatements of its minimum needs in view of the actual use made of the copiers, consideration should be given to issuing a new solicitation with revised

B-186099

specifications instead of exercising the options under the AM contract. A letter to this effect is being transmitted today to the Secretary of the Air Force.

  
Deputy Comptroller General  
of the United States