

DECISION



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

991

FILE: B-193597

DATE: February 22, 1979

MATTER OF: Lanier Business Products, Inc. *CNG 01045*

DIGEST:

Reasonable basis existed for placing order with higher priced contractor under Federal Supply Schedule contract for word processing equipment because equipment offered longer unattended recording time, tape priority system and did not utilize expendable paper discs, which would have to be procured periodically.

*CNG 01046
DLG 01028*

Lanier Business Products, Inc. (Lanier), has protested the award of purchase order DACW31-79-F-0174 to Dictaphone Corporation (Dictaphone) by the United States Army Corps of Engineers, Baltimore, Maryland (Army), for word processing equipment.

Prior to awarding the purchase order, the Army telephonically contacted three firms which held General Services Administration Federal Supply Schedule (FSS) contracts. Lanier, Dictaphone and Phillips Business Systems, Inc. (Norelco), each submitted a proposal which was technically evaluated. Notwithstanding the fact that Dictaphone proposed the highest monthly rental (\$456), its proposal was found to be most advantageous to the Government because the equipment proposed by Dictaphone possessed technical features not offered by the other firms, and an order was placed under Dictaphone's FSS contract.

Lanier argues that it submitted the lowest responsive proposal. In its cost proposal of October 18, 1978, Lanier stated the cost to lease the equipment would be \$434.65 monthly. While Norelco's proposal was \$420 per month, Lanier argues that this proposal would be subject to the Buy American Act (41 U.S.C. § 10 (1976)) differentials. We do not find it necessary

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to resolve this question in order to respond to the protest.

Further, while Lanier, in its comments on the Army's response to the protest, refers to the procurement as a sole-source award and questions the justification for such an award, this procurement was not sole source. Three proposals were received and evaluated and the Army selected the higher priced offer, in view of technical features offered.

The technical features which the Army found made the Dictaphone proposal most advantageous were:

1. While both systems utilize cue tones placed on the tape to indicate special instructions, the Lanier system requires paper discs showing the operator where the instructions are located. These discs are expendable items which must be procured periodically.
2. The Dictaphone system will automatically separate priority cassettes from non-priority cassettes.
3. Dictaphone systems will record for 750 minutes without an attendant while the capacity of the Lanier system is 360 minutes.

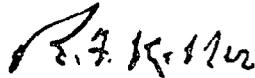
Lanier argues that both systems place cue tones on the tape but does not dispute the need for paper discs with its system. Regarding the priority feature, Lanier points out that the feature can only be used to separate the tape cassettes before recording, not during or after recording. Finally, Lanier states that the 750-minute capacity is unnecessary because the 360 minutes available on its system would normally take the word originator 8 hours to record.

While Lanier disputes the benefits to be gained by the Dictaphone features, it is clear from the record

that the Dictaphone system offered features not present on the Lanier system and the Army determined these technical features outweighed the cost savings offered by Lanier.

While the FSS contracts involved here are not mandatory for Department of Defense activities, the justification advanced by the Army, pursuant to Defense Acquisition Regulation § 5-106 (1976 ed.), had a reasonable basis and our Office will not object to the decision to place the order with Dictaphone. Dictaphone Corporation; Business Equipment Center, Ltd., B-192314, B-192373, November 14, 1978, 78-2 CPD 345.

Accordingly, the protest is denied.



Deputy Comptroller General
of the United States