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DECISION



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

FILE: B-198919 DATE: August 28, 1980
MATTER OF: Saxon Business Products, Inc.

DIGEST:

[Protest of Agency rental of copying equipment] from multiple-award Federal Supply Schedule vendor, at cost allegedly higher than cost associated with allegedly comparable equipment, is not legally objectionable where agency, on the basis of features associated with the equipment leased, justifies acquisition of such equipment and protester does not show agency position to be clearly without a reasonable basis.

Saxon Business Products, Inc. (Saxon) protests the issuance of a purchase order by the Bureau of Prisons, Department of Justice (Justice), for rental of three Savin copiers, model 780, pursuant to Savin Corporation's multiple-award Federal Supply Schedule (FSS).

Saxon contends that it offers a comparable copier, the Saxon Model 1, at less cost and that under the Federal Procurement Management Regulations (FPMR), which requires agencies to order the lowest priced items available under the Schedule unless they can justify higher-priced items, see 41 C.F.R. § 101-26.408-2 and -3 (1979), the order should have been placed with it.

Justice did not consider the Saxon 1 prior to placing the purchase order, apparently because that machine was not previously tested and evaluated under the Department's Reprographics Management Program. Nonetheless, Justice, in response to the protest, offers several reasons why it apparently needs the features of the Savin equipment and sets forth a cost comparison which purportedly shows the Savin equipment as less costly than the Saxon 1.

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It is not clear to us why Justice believes that, consistent with the FPMR, it can consider ordering only copying equipment that it has previously evaluated, rather than all equipment which is listed on the FSS. Nonetheless, we believe that Justice has offered adequate justification for ordering the Savin equipment rather than the Saxon 1. In this regard, Justice points out that with the Savin machine, it is only necessary to push a button to change from regular to legal size paper, while the Saxon 1 requires manual replacement of a paper cassette. Similarly, the Savin equipment has a work area while the Saxon 1 does not (one is available as an accessory at additional cost). Also, the Savin drum life is twice that of the Saxon 1 drum life. Finally, the Savin machine, unlike the Saxon 1, uses regular paper, thereby permitting use of Department letterheads, "an extremely important factor" according to Justice.

Saxon does not agree with Justice's comparative evaluation. It states that the Saxon 1 has greater paper capacity than the Savin copier, that replacement drums are available at no additional cost, and that the Saxon 1 does have a work area.

As indicated above, the regulations permit acquisition of higher cost items if there is adequate justification. That justification may be based on the existence of features associated with a particular item which are required by an agency for its own effective performance. 41 C.F.R. § 101-26.408-3(b)(1). In reviewing protests such as this, we do not decide what equipment should be acquired; rather, we review the agency's judgment, and will not object to it unless it is clearly shown to be without any reasonable basis. Dictaphone Corporation, et al., B-192314, B-192373, November 14, 1978, 78-2 CPD 345.

Here, we cannot find that Saxon has made that showing. The fact that Saxon's cassette may hold more paper than the Savin cassette does not negate the fact that it is simpler and quicker to change from regular to legal size paper with the Savin dual cassette feature than it is with the Saxon 1, which uses only a single cassette. Moreover, the fact that Saxon replaces the

drum when it wears out at no charge is not relevant to Justice's concern that the need for the replacement will involve some "down" time of the machines. Also, we understand that the work area Saxon claims to have with the Saxon 1 is actually a moving area, which is obviously less desirable than the stationary platform featured by the Savin model. Saxon also does not effectively rebut Justice's belief that it cannot use its letterhead stationery with the Saxon machine.

Thus, under these circumstances, we find that Justice has adequately justified its acquisition of the Savin equipment over the Saxon 1, even if, as alleged by Saxon, the Saxon 1 is less costly. Therefore, the protest is denied.

Harry R. Van Cleave
For the Comptroller General
of the United States