

DECISION

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

SAF
2437

FILE: B-206842, B-208487

DATE: March 1, 1983

MATTER OF: Champion Road Machinery International
Corporation

DIGEST:

Where purchasing agency shows that specification restrictions requiring that motor grader have full power successive gear transmission is prima facie reasonable, specifications are not unduly restrictive of competition.

Champion Road Machinery International (Champion) protests invitations for bids (IFB) Nos. 3465 (B-206842) and 3494 (B-208487), issued by the Phoenix Area Office of the Bureau of Indian Affairs (BIA), Department of the Interior (Interior), for motorized road graders in accordance with Federal Specification 00-G-630E.

We deny the protest.

BIA states that the motor graders will be used for snow removal, road construction, and road maintenance at locations ranging in altitude from 1,000 to 10,000 feet and varying soil conditions from mountains and plateaus to desert and occasionally at extensive distances between work locations.

The specifications of the IFB's permitted only the transmission described in paragraph 3.9.1(a) of the Federal Specification which permits shifting under full engine power through successive forward and reverse gear ratios. Paragraph 3.9.1 also provides, dependent upon normal practice for the grader manufacturer, for "(b) shifting under full engine power through successive forward and reverse gear ratios within ranges," and "(c) shifting from forward to reverse or vice versa by a rocker pedal in lieu of a clutch pedal without hand shifting."

Champion did not submit bids since Champion manufactures the range type transmission described in subparagraph (b). At least three manufacturers utilize the subparagraph (a) successive gear type transmission. Deere

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and Company (Deere) is the proposed awardee under IFB No. 3465. That firm has been awarded the contract under IFB No. 3494.

Champion alleges that its grader has six speeds forward and reverse with a low range and a high range feature satisfactory for most working conditions and an acceptable high roading speed. In the low range, the Champion grader has three gears and speeds, which will allegedly perform 98 percent of all work for which graders are designed. The Champion grader can be shifted in either range, which overlap to some extent, under full load, at full engine RPM's without deceleration or clutching up or down through the first three speeds and forward to reverse.

Champion asserts that its grader performs like two full power transmissions in one and contends that its grader has more speeds to perform work more efficiently than the competing graders with the successive gear type (a) transmission. The protester, by supporting technical exhibits, concludes that the required work can be performed in one or the other of its ranges requiring no range changes.

BIA alleges, and Champion does not deny, that the Champion machine must be brought to a stop before an appropriate range (high or low) can be selected by the operator. The ability of the required type (a) transmission to change through successive gears and power ranges without stopping reportedly results in greater efficiency, productivity, and ease of operation, with savings of considerable time and money. BIA demonstrates this by giving examples of several typical work conditions, which call for a significant number of shifting decisions and operations. Finally, BIA asserts that competition is not limited since other firms have the ability to meet the specifications, and Champion could utilize the specified transmission.

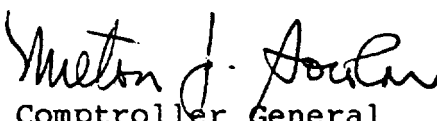
Deere and one of the bidders on IFB No. 3465 subscribe to BIA's arguments that the type (a) transmission is more productive and efficient, specifically rebutting Champion's arguments concerning the fundamental equivalency of its transmission for the expected work conditions.

The determination of the Government's minimum needs and the best method of accommodating those needs is primarily the responsibility of the contracting agencies. We have

recognized that Government procurement officials, since they are the ones most familiar with the conditions under which supplies, equipment or services have been used in the past and how they are to be used in the future, are generally in the best position to know the Government's actual needs. Consequently, we will not question an agency's determination of its actual minimum needs unless there is a clear showing that the determination has no reasonable basis. However, when a protester challenges a specification as unduly restrictive of competition, the burden is on the procuring agency to establish prima facie support for its contention that the restrictions it imposes are needed to meet its minimum needs. But, once the agency establishes this prima facie support, the burden is then on the protester to show that the requirements complained of are clearly unreasonable. ALCO Power, Inc., B-207252.2, November 10, 1982, 82-2 CPD 433.

While the Federal Specification treats the three designated transmission types as equally permissible and capable of performing the work for which a motor grader is designed, it permits an agency to specify a particular transmission. We are convinced that the BIA description of the work conditions shows the successive gear transmission has a greater productive capacity in these conditions. We are particularly impressed with the significant number of gear changes that appear to be required by those conditions. Furthermore, Champion did not rebut the latest agency support for the requirement. Because of this, the fact that Champion can compete, and the existence of competition, we conclude that restricting the procurements to road graders with the type (a) transmission has not been shown to be clearly unreasonable or unduly restrictive of competition.

Protest denied.

for 
Comptroller General
of the United States