

DECISION

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

PL-4

FILE: B-219468**DATE:** September 25, 1985**MATTER OF:** Bell Atlantic Mobile Systems**DIGEST:**

1. Protest against alleged sole-source procurement is denied where record shows that more than one manufacturer offers conforming equipment, and the agency in fact has received two acceptable offers.
2. Protest against specifications as exceeding procuring agency's reasonable needs is denied where agency has established prima facie support for specifications and protester has not shown that agency's specified needs are unreasonable.

Bell Atlantic Mobile Systems (Bell) objects to certain mandatory specifications in Defense Supply Service (DSS) solicitation No. MDA 903-85-R-0063 for portable telephones. The specifications in question require the phones to have: (1) a "minimum of thirty memory dialing locations"; (2) an "electronic volume control to permit adjusting of both the audio and ring levels of the earpiece and ringer"; and (3) "Keypad Programmability which restricts and controls [so that only] specific type calls [may] be placed."

Bell complains that the specifications can be met only by the "Motorola 8000X" and that, in any event, DSS does not need telephones having the above characteristics.

In response to the sole-source allegation, DSS insists that "Motorola is not the only manufacturer and . . . the 8000X is not the only unit offered, that meets the mandatory specifications of the solicitation." DSS also reports that it has received two acceptable proposals. Bell replies that it disagrees with DSS's position on "information and belief"; however, Bell's allegation does not constitute evidence to rebut DSS's position set forth in the record before us that more than one manufacturer offers conforming equipment. Consequently, we deny Bell's "sole-source" argument, but will examine whether the three specifications are unduly restrictive of competition because they allegedly overstate the needs of the agency.

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As to DSS's needs described in the three specifications, it is well established that the initial burden of proof is on the procuring agency to establish prima facie support for its position that the specifications are necessary to meet the agency's reasonable needs; however, the agency is accorded broad discretion in determining its needs because the agency is in the best position to determine them and to draft appropriate specifications. Sparklet Division, Inc., 60 Comp. Gen. 504 (1981), 81-1 C.P.D. ¶ 446. Moreover, the protester retains the burden of showing that the specifications complained of are clearly unreasonable once the agency has established prima facie support for them. Oshkosh Truck Corporation, B-198521, July 24, 1980, 80-2 C.P.D. ¶ 161.

Based on the record before us, we conclude that DSS has established prima facie support for the questioned specifications and that Bell has failed to show that the specifications are clearly unreasonable.

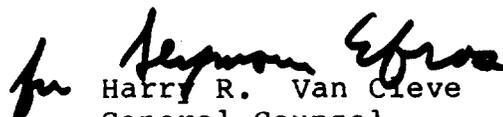
Bell challenges the requirement for "Memory Dialing Capacity," which specifically provides that the portable telephones have a minimum of 30 memory dialing locations. DSS states that the memory capacity is "required to provide high ranking DOD Military and Civilian dignitaries the capability to store and recall frequently dialed numbers for immediate use during emergency situations." DSS points out that this requirement provides quick-dial capability which also is necessary in an emergency situation. Bell argues that "high-level" users will not be able to retrieve the proper phone number without recourse to a "directory or other mnemonic" and, thus, the requirement will not meet the agency's needs. However, this argument is speculative and not directly relevant to the issue of whether or not the agency has a justifiable need for this feature. In our view, DSS has shown that the requirement for quick-dialing capability is reasonably related to a need for high-level users to be able to phone other locations as quickly as possible in emergency situations. Whether or not all users can handle the capability to maximum efficiency does not detract from the need for this capability. Thus, we cannot conclude that DSS's position has been shown to be clearly unreasonable.

Bell also disputes the need for the feature which permits the user to adjust the audio level of the earpiece and ring level of the ringer. DSS asserts that the users must be able "to control both the audio and ring levels of

the earpiece and ringer" as required in "conference environments, noisy areas, or when used in an area, possibly a residence, when the ringer volume must be louder than usual." Bell argues that important calls may be missed if a user fails to make necessary volume adjustments. We do not agree that this speculative possibility, which assumes the agency official's negligent use of the feature, renders DSS's need for this requirement unreasonable. Here, proper use of this feature meets a need of the agency to permit use of the portable phone in the varied environments such as conference facilities and the home where the officials will carry and use the phone. Simply stated, the absence of the feature permitting phone users to adjust the volume of the ringer and the audio features would restrict the use of the portable phone where the agency has the need for the use of the phone in a wide variety of different locations. Bell has not rebutted this rationale for the requirement and, on this record, we have no basis to object to the requirement.

Finally, Bell objects to the requirement for keypad programmability. This feature restricts the user to selected numbers placed into the phone's memory or permits specific type calls to be placed. DSS reports that this feature is needed to "provide/allow instant selective restrictions [on phone use] as necessary" and that the "custodian of the units, that is, Executive Motor Pools and Command and Control facilities [must be able] to program restrictions immediately depending on the user and his specific mission or rank." DSS believes this feature is necessary for effective management of the system and to limit misuse of the system. Bell argues that certain restrictions cannot be programmed with this feature. For example, Bell argues that a user cannot be restricted to local calls only by use of this feature. However, Bell admits that some restrictions may be programmed under this feature. For instance, telephone use can be limited to the phone numbers contained in the memory and to calls to only three locations which have been encoded in the memory. Also, it can be used to completely eliminate the use of numbers in the memory. Since Bell, in effect, concedes that it can be used to control use of the phones, we cannot conclude that this requirement does not reflect DSS's stated needs.

We deny the protest.


for Harry R. Van Cleave
General Counsel