



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Memorex Telex Corporation

File: B-232026

Date: September 30, 1988

DIGEST

Protest that agency requirement that maximum power consumption for solicited computer equipment cannot exceed 5 kilovolt amps (KVA) unduly restricts competition is denied where agency explains that the limitation on power consumption is necessary because only 5 KVA is available on their Uninterrupted power source system.

DECISION

Memorex Telex Corporation protests the Selective Service System's (SSS) proposed intent to issue a delivery order to International Business Machine Corporation (IBM) for an IBM 3490 cartridge tape system under IBM's nonmandatory automatic data processing (ADP) schedule contract No. GS-00K-88-AGS-5927 with the General Service Administration (GSA). Memorex contends that the purchase requirement is unduly restrictive because it specified that the power consumption of any equivalent equipment configuration cannot exceed 5 Kilo-Volt Amps (KVA). Memorex contends that its product meets the government's minimum needs.

We deny the protest.

SSS had published in the Commerce Business Daily (CBD) notice of the agency's intent to place an order against an ADP schedule contract. The notice identified the item as an IBM 3480 cartridge tape system, or equivalent, and listed the various items of equipment for the system. Interested schedule and nonschedule vendors were invited to submit written responses. These responses were to include prices, technical data sufficient to determine capability to meet the requirement and, if applicable, a GSA non-mandatory ADP schedule contract Number.

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Letters of interest were received from several companies, including Memorex, all of which had GSA nonmandatory ADP schedule contracts. After evaluating the technical specifications submitted by the various vendors, SSS determined that the equipment proposed by Memorex did not meet the requirement that power consumption could not exceed 5 KVA.

When a protester challenges a specification as unduly restrictive of competition, the procuring agency bears the burden of presenting prima facie support for its position that the restrictions are necessary to meet its actual minimum needs. CAD/CAM On-Line, Inc., B-226103, Mar. 31, 1987, 87-1 CPD ¶ 366. The determination of the agency's minimum needs and the best method of accommodating those needs are primarily matters within the contracting agency's discretion and, thus, once the agency establishes support for the challenged specifications, the burden shifts to the protester to show that the specifications are clearly unreasonable. Id.

The agency states that because the Joint Computer Center (JCC), the user activity, has limited ability to provide a source of uninterrupted power for certain mandatory work requirements until its uninterrupted power source can be upgraded, the JCC cannot add equipment that will increase the electrical load more than 5 KVA because there is a risk of damage to the computer system.

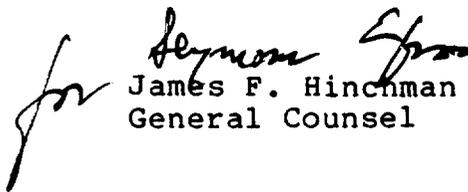
In its comments on the agency's report, Memorex argues that the agency has provided no documentation substantiating their claim that only 5 KVA are available on their uninterrupted power source system. Memorex contends that even if the power source at the JCC is limited to 5 KVA, the power system has a tolerance of approximately 5 percent, which would be about 10 KVA since it is a 200 KVA unit. Further, Memorex contends that, at a maximum, the JCC evaluated their equipment to require 5.52 KVA. According to Memorex, the maximum situation seldom occurs. Memorex thus asserts that this was an unrealistic evaluation since, in its view, the additional .52 KVA is "insignificant." Memorex does not, however, rebut the agency's determination that at a maximum its proposed equipment requires .52 KVA.

The protester does not dispute that its product's power usage exceeds the agency's requirement by .52 KVA. The protester argues that the equipment maximum power usage will seldom occur. However, given its inability to upgrade the power system at this time, the agency is concerned that full capacity should not be realized. The record indicates that should the power supply be overloaded, this could cause

damage to the computer system. The agency has in fact been advised by the power source manufacturer that the power source should never be used beyond 90 percent of its capacity. Memorex does not deny that use of its product potentially could lead to maximum load and we think the agency legitimately can define its needs so as to minimize the risk to the computer system.

The protester has not persuasively rebutted the agency's justification for the limitation on power consumption and has failed to meet its burden of showing that the specification is clearly unreasonable.

The protest is denied.

for
James F. Hinchman
General Counsel