

Maeder



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Advance Business Systems--Reconsideration

**File:** B-237728.2

**Date:** July 30, 1990

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Richard C. Burke, for the protester.  
Jacqueline Maeder, Esq., and John F. Mitchell, Esq., Office  
of the General Counsel, GAO, participated in the preparation  
of the decision.

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### DIGEST

Prior decision holding that agency properly elected to order a non-mandatory item from a federal supply schedule (FSS) contract when agency determined that burden and cost of new procurement outweighed protester's \$222 cost advantage is affirmed, where protester's argument that cost of placing an order with it are the same as for the FSS contractor, does not take into account the requirement that agency conduct a procurement under small purchase procedures.

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### DECISION

Advance Business Systems (ABS) requests reconsideration of our decision in Advance Business Systems, B-237728, Mar. 16, 1990, 90-1 CPD ¶ 300, in which we denied ABS' protest against the decision of the Utah Air National Guard to purchase maintenance services for several copy machines from The Copy Man (TCM), under TCM's non-mandatory General Services Administration (GSA) federal supply schedule (FSS) contract, at a price higher than that quoted by the protester.

We affirm our prior decision.

In its protest, ABS contended that the National Guard's issuance of a renewal order for maintenance services for the copy machines to TCM under that firm's FSS contract was improper because TCM's annual price of \$6,290 was \$222 more than the price of \$6,068 quoted by the protester. We noted that by regulation, agencies are encouraged to use the non-mandatory FSS as a primary source of supply, except where the agency has "actual knowledge" that it could procure the item by solicitation at a price more advantageous to the

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government, after taking into consideration the burden and cost of a new procurement. Federal Property Management Regulations (FPMR) § 26.401-5(b), 41 C.F.R. § 101-26.401-5(b) (1988). Here, the National Guard indicated that it had determined that the potential \$222 savings was outweighed by the cost and burden of conducting a new procurement, a position which the protester did not rebut. In view of the relatively small potential price advantage, we found that the agency had not abused its discretion in determining to use the FSS for procuring the maintenance services. See Precise Copier Servs., B-232660, Jan. 10, 1989, 89-1 CPD ¶ 25.

In its request for reconsideration, ABS argues that the cost of placing an order would be the same whether the agency obtained these services from ABS or from TCM. Therefore, ABS contends that its lower price should have resulted in an award to it. ABS apparently believes that the agency need not conduct a new procurement but can simply order from ABS because ABS offered a lower price than that offered on the FSS schedule.

The protester apparently misunderstands the procurement process involved here. Under part 13 of the Federal Acquisition Regulation (FAR), agencies are required to utilize small purchase procedures for purchases of less than \$25,000. Once the National Guard was aware that it could obtain the copier maintenance services for less than the prices quoted on the non-mandatory FSS schedule, it was required to follow these small purchase procedures. Although these are simplified procedures and are exempted from the requirement set forth in the Competition in Contracting Act of 1984 that agencies obtain full and open competition through the use of competitive procedures (10 U.S.C. §§ 2302(3), 2304(a)(1)(A) (1988)), small purchase procedures do require that agencies obtain competition to the maximum extent practicable. 10 U.S.C. § 2304(g)(4); Omni Elevator, B-233450.2, Mar. 7, 1989, 89-1 CPD ¶ 248. For purchases of more than \$1,000, as here, the FAR requires contracting officers to solicit quotations from a reasonable number of qualified sources to ensure that the purchase is advantageous to the government, price and other factors considered. FAR § 13.106(b)(1) (FAC 84-5). Generally, solicitation of three suppliers is sufficient. FAR § 13.106(b)(5) (FAC 84-5); California Properties, Inc., B-232323, Dec. 12, 1988, 88-2 CPD ¶ 581. Additionally, the contracting officer must maintain informal records of the names, prices, and other terms of the suppliers contacted. FAR § 13.106(c)(3)(i) (FAC 84-5).

Therefore, before the National Guard could order from ABS, it would have to solicit from other sources and maintain records of these solicitations and it is the costs involved in conducting these procedures that the agency argued, and we agreed, would outweigh the potential \$222 savings that ABS offered.

Accordingly, our prior decision is affirmed.

  
James F. Hinchman  
General Counsel