

**DECISION**

DIGEST - L - Cont

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

79-2 CPD 304 784

FILE: B-195429

DATE: October 29, 1979

MATTER OF: Lanier Business Products, Inc.

## DIGEST:

Protester's contention that reductions in its Federal Supply Schedule prices effective before award made its equipment the least expensive is denied because protester's price was still higher than award price.

Lanier Business Products (Lanier) protests the award of purchase order DABT35-79-F-3953 for a dictation system to Dictaphone Corporation by the Department of the Army, Fort Dix, New Jersey. Lanier contends that it offered lower prices than Dictaphone for the same equipment. We disagree.

Prior to awarding the purchase order, the contracting officer contacted four firms that held Federal Supply Schedule (FSS) contracts, informing them of the specifications to be met and the contracting officer's opinion as to which of each respective contractor's equipment best satisfied the Army's needs. The suppliers were requested to either confirm the contracting officer's understanding of their equipment or identify alternatives by February 28, 1979. This was accomplished by individual discussions between supplier and Army representatives.

Lanier and Dictaphone offered the lowest prices. The February 28 schedule price was \$40,557 for Lanier and \$39,673 for Dictaphone. The prices used for evaluation purposes, however, included a General Services Administration discount and the addition of a penalty for foreign products, as required by the Buy American Act, 41 U.S.C. § 10a et seq. (1976). Lanier's evaluated price was \$46,228.92 and Dictaphone's evaluated price was \$44,489.84.

The Army determined that Dictaphone's system was the least expensive and after our resolution of a protest by another firm the Army on June 29 purchased the equipment from Dictaphone without considering reductions in the February 28 schedule prices. See D & S Word Processing Systems, B-194247, June 25, 1979, 79-1 CPD 451.

Lanier advised the Army on March 6 that the price of its central recorder had been reduced from \$2145 to \$1995. Lanier argues that, after the four month delay in award, the contracting officer should have taken into account Lanier's reduction in the recorder schedule price. Lanier also lowered the schedule price of its coupler from \$470 to \$409. It contends that these prices were the lowest available on the date that the Army awarded the purchase order to Dictaphone. In addition, Lanier points out that the Army's report to our Office incorrectly quotes the reduced recorder price as \$2095 instead of \$1995. The Army, however, explains that the \$2095 price reflects the combined price of the recorder and an accessory required for Lanier's system to provide voice operated relay. Lanier does not question the necessity of this accessory.

In support of its position, Lanier states that its purchase price for the same equipment purchased by the Army, in effect on June 29, the date of award to Dictaphone, was \$39,026. It quotes an evaluated price of \$34,733.14. These prices are lower than those of Dictaphone, but only because Lanier failed to include amounts in its computation for six recorder accessories, an attendant phone and two conference microphones that the Army required and purchased from Dictaphone. In addition, Lanier did not include in its evaluated price the Buy American Act penalty assessed for the foreign end products offered by Lanier. We note that Lanier has stated no reason for objecting to the Army's "Buy American" evaluation of Lanier's foreign products.

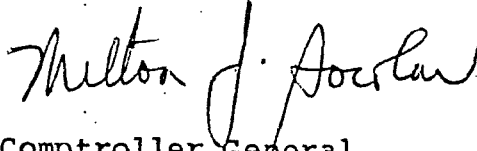
Using the reduced prices for the recorder and coupler submitted by Lanier, and the Buy American evaluation figures used by the Army in its report, we have computed

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the purchase price for the complete dictation system as \$40,191 and the evaluated price as \$45,102.18. Since the prices are more than the Dictaphone prices indicated above, we find Lanier's claim that its equipment could be acquired at the lowest price to be without merit.

The protest is denied.



For The Comptroller General  
of the United States