

DECISION



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

FILE: B-196332

DATE: June 3, 1980

MATTER OF: Dictaphone Corporation

DIGEST:

Where agency awarded delivery order on basis of sole-source justification, but it appears that total Federal Supply Schedule price for protester's equipment would have exceeded price at which award was made even if protester's equipment was comparable, no objection will be made to award.

Dictaphone Corporation (Dictaphone) protests the award of delivery order F22600-79-F-2033 to Lanier Business Products, Inc. (Lanier), for a complete dictating system for the United States Air Force Medical Center, Keesler Air Force Base.

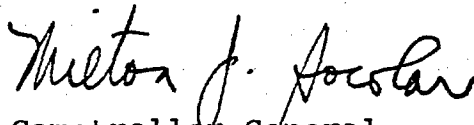
The order was issued to Lanier based on a sole-source justification that only the Lanier equipment had six required features and capabilities not available in other manufacturers' equipment. Dictaphone protests the award on the basis that the Dictaphone system on the Federal Supply Schedule (FSS) meets the Medical Center's needs in all six respects and at a lower price. Dictaphone points out that prior to award it presented to the Medical Center an informal quotation for equipment at a lower price than the award price to Lanier. However, the Air Force indicates that it had a requirement for a minimum storage capacity of 2,000 minutes, that for Dictaphone to meet the requirement Dictaphone would have to furnish two more tank recorders than offered and that at the FSS \$1,750 price per unit, less discount, its total price would have exceeded Lanier's total price even if the equipment was comparable in all other respects.

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[Protest Concerning Delivery Order]

Dictaphone has responded that the need for a minimum of 2,000 minutes of tape storage is an after-the-fact determination to disqualify it and that it would have provided the additional capacity at no added cost. However, subparagraph 1(a) of the sole-source justification, dated before the date of the order and protest, indicates a need for a system capable of storing 200 minutes of dictation per tank without overloading and subparagraph 1(c) states a need for the system to "distribute evenly across the line of ten recorders." (Emphasis added.) These two subparagraphs taken together indicate that before award the Medical Center contemplated a requirement of 2,000 minutes of total storage capacity. Further, Dictaphone's statement now that it would have provided the additional tank recorders from the FSS at no added cost if the equipment would have been ordered from it appears highly conjectural and speculative in the face of the FSS listing for the equipment at \$1,750 per unit, less discount.

In the circumstances, even if the Dictaphone system is comparable to Lanier's and is capable of fully satisfying the Medical Center's requirements, it would not have been unreasonable for the contracting officer to choose the Lanier equipment based on the cost advantage apparent from the FSS. Accordingly, we will not object to the award made.

The protest is denied.



For the Comptroller General
of the United States