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**DECISION**



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

*[Protest of RFP Specifications]*

FILE: B-200288

DATE: March 5, 1981

MATTER OF: Pitney Bowes, Inc.

**DIGEST:**

1. Specifications are not ambiguous where, following clarification by amendment, they are not subject to more than one reasonable interpretation.
2. Protest alleging specifications for mail inserting machines are unduly restrictive is denied where agency establishes reasonable relationship between challenged requirements and agency's legitimate minimum needs, and protester does not attempt to rebut agency's arguments.

Pitney Bowes, Inc. (Pitney Bowes) protests the statement of minimum requirements in request for proposals (RFP) No. IRS-80-107, an Internal Revenue Service (IRS) solicitation for 10 automatic mail inserting machines.

September 12, 1980, was the closing date for receipt of proposals under the RFP. On September 4, 1980, Pitney Bowes wrote the contracting officer, stating that six areas of the RFP were ambiguous and in need of clarification, and that four of the listed technical requirements were unduly restrictive. On September 9, 1980, Pitney Bowes filed a protest with our Office, alleging that the RFP was defective for the reasons stated in its September 4 letter to the contracting officer. On the same day, the contracting officer issued Amendment 003 to the solicitation, which extended the date for receipt of proposals until September 15 and specifically addressed each of Pitney Bowes' objections. Since Pitney Bowes' protest made no mention of the amendment, we assume the protest

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was filed shortly prior to its receipt of the amendment. Pitney Bowes' only subsequent correspondence to our Office was to ask us to consider the protest on the existing record following its receipt of the IRS report. Since Pitney Bowes did not withdraw any of its objections to the RFP even after the amendment was issued, we assume all of its original objections still stand. Nevertheless, we believe the amendment provided sufficient clarification for the six alleged ambiguities. In this regard, we note that the specifications as amended were not subject to more than one reasonable interpretation. Telectro-Mek, Inc., B-190653, April 13, 1979, 79-1 CPD 263. Therefore, we will not pursue this aspect of the protest. The contracting officer refused to relax the four challenged technical requirements, however, explaining instead that those requirements represented legitimate agency needs. Thus, we here consider whether the IRS' specifications were unduly restrictive of competition.

Pitney Bowes questions the following requirements: 1) total end clearance within the envelopes when filled cannot exceed one-half inch; 2) inserted pages must be folded collectively; and 3) "last page" identifying marks must be located between .250 and .375 inch above the bottom edge of the page. In addition, Pitney Bowes alleged that as it read the workload requirements, only one manufacturer could pass the "missing page" and "out of sequence" error condition tests. Pitney Bowes maintains that the IRS has no legitimate need for these requirements, that they can be met by only one or a very limited number of firms, and that these requirements therefore unduly restrict competition. Although Pitney Bowes requested that the award be postponed, award was made to Bell and Howell Company on September 30, 1980, based upon a determination that a prompt award would be most advantageous to the Government.

The IRS argues that the protest should be denied because all of the challenged requirements were reasonably established and are rationally related to its minimum needs. We agree. The IRS reports that its specifications were formulated to achieve the greatest speed and accuracy possible consistent with the use of a high speed impact printer and the "paramount concern for the confidential nature of the taxpayer correspondence being handled by the inserter." These general considerations are reflected in the agency's justifications for refusing to modify the challenged requirements. Specifically, the one-half inch end clearance requirement was intended to preclude the possibility, were greater clearance permissible, that once inserted the letter would shift to the left side of the envelope and reveal confidential taxpayer information through the address window. The IRS also points out that if the requirement were relaxed, the letter would be able to shift further to the right of the envelope, thus obscuring part of the proposed nine-digit zip code. Any greater clearance reportedly would also adversely affect operation of the presorting machine used to qualify for postage discounts. The IRS maintains that this requirement has existed for its inserter machines for over a decade, and notes that it has a Pitney Bowes standard inserter which meets this requirement.

As for the other requirements, IRS explains that the need for collective folding rather than folding of individual sheets is based on generally recognized business practice as well as the greater speed and accuracy possible when correspondence is folded with all pages together in sequence. In this latter regard, it was anticipated that the folding of individual pages would increase both the number of machine jams and the possibility that a loose page could be inserted in the wrong envelope. The

requirement that the "last page" identifying mark be .250 to .375 inch from the bottom of the page was imposed because that distance corresponds to the last printable line of the high-speed non-impact printer used to print IRS correspondence. To allow the mark at some higher point on the page would, we are told, necessitate reprogramming the printer and also result in the loss of at least one printable line on each page of correspondence. Finally, although it is unclear precisely why Pitney Bowes found the workload requirement unduly restrictive, the IRS explains that Pitney Bowes' objection appears to have been based upon a misunderstanding of the specification, which was clarified in Amendment 003. Pitney Bowes has not informed us otherwise.

The procurement statutes require the contracting activities to make every reasonable effort to draft specifications which permit the broadest field of competition consistent with the Government's needs. When a specification is challenged with some support as restrictive of competition, it is incumbent upon the procuring activity to furnish prima facie evidence that the restriction it would impose is reasonably related to its actual needs. Gerber Scientific Instrument Company, B-197265, April 8, 1980, 80-1 CPD 263.

If a specification is reasonable and necessary, the fact that only one firm or a few firms can meet the Government's needs does not violate competitive bidding requirements. 45 Comp. Gen. 365 (1965). [Once, as here, contracting officials have established an apparently sufficient and rational basis for demanding disputed specifications, the burden of proof lies with the protester to show that the Government's insistence upon them is clearly unreasonable.] Gerber Scientific Instrument Corporation, supra; Alan Scott Industries, B-193530, April 27, 1979, 79-1 CPD 294.

Pitney Bowes has not attempted to rebut the IRS' arguments concerning the reasonableness of the requirements in question. Because we believe the IRS has presented a rational basis for the disputed requirements,

the protest is denied.] See generally, United States Crane Certification Bureau, Inc., B-197433, April 2, 1980, 80-1 CPD 247; Sub-Sea Systems, Inc., B-195741, February 12, 1980, 80-1 CPD 123.

*Milton J. Aorlan*

Acting Comptroller General  
of the United States