

Chalpin 120047

DECISION



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

FILE: B-208066

DATE: December 6, 1982

MATTER OF: Philips Information Systems, Inc.

DIGEST:

1. Protest that procuring agency's analysis of the protester's word processors is deficient in the areas of "security, footnoting, and hyphenation" is timely under 4 C.F.R. § 21.2(b)(2) (1982), since the protest was filed within 10 working days of a debriefing where the protester first learned why its equipment was considered deficient; however, additional grounds of protest concerning amount of leadtime given protester to demonstrate its equipment and telephone calls which were allegedly not returned by agency, even if timely, need not be answered since system was properly excluded from consideration.

2. GAO concludes that a requirement for a "built-in" security system (that is, a "password" screen) in five word processors as essential to safeguard sensitive litigation materials has a reasonable basis; therefore, protester's system, which does not contain a password screen, was properly excluded from consideration for award.

Philips Information System, Inc. (Philips), protests the award of a delivery order to Lanier Business Products (Lanier) by the Department of Energy (DOE). The delivery order was for five word processors to be used in the Regulatory Litigation Division of DOE's Office of the General Counsel. Philips contends that DOE's action was based on an inaccurate analysis of Philips' word processing equipment and, therefore, was unjustified. We find that the protest is without merit.

DOE issued an announcement in the Commerce Business Daily (CBD) on April 23, 1982, that it was negotiating with Lanier for five word processors. On May 3, 1982, Philips delivered a proposal containing its equipment to DOE. On

May 5, 1982, upon 2 hours' notice from DOE, Philips conducted a demonstration of its equipment. Between May 5, 1982, and June 2, 1982, Philips states it attempted unsuccessfully to contact DOE for information on "mandatories and applications" desired by DOE.

During this latter period, those at DOE responsible for using the word processors found Philips' equipment deficient in three areas: "[built-in] security features, footnoting, and automated hyphenation." DOE considered these three functions necessary to the legal typing work to be done. Accordingly, DOE awarded the delivery order to Lanier.

On June 3, 1982, Philips learned from a competing vendor that the award had been made to Lanier. On June 9, 1982, DOE informed Philips that it had awarded the delivery order to Lanier and disclosed that Philips' equipment was considered deficient. Philips then requested a debriefing. DOE granted a debriefing for June 18, 1982. On this day, DOE elaborated on why it considered Philips' equipment deficient in the above areas.

On June 28, 1982, Philips filed a bid protest with our Office. Philips contends that a built-in security system (that is, a "password" screen) is unnecessary and that the footnoting and hyphenation capabilities of its product meet DOE requirements. Philips argues that its bid protest was timely because it was unaware of the details of why it lost until the debriefing of June 18. Philips also claims that DOE improperly gave it only 2 hours' leadtime to prepare its demonstration on May 5, 1982, and that DOE failed to return Philips' repeated calls from May 5, 1982, to June 2, 1982.

DOE contends that Philips' protest is untimely because the company allegedly knew its basis for protest by June 9, 1982, when DOE informed Philips that the company's equipment was deficient in the above areas. Philips' protest, however, was not filed until 13 working days after this disclosure, or more than the 10-working-day filing period set forth in § 21.2(b)(2) of our Bid Protest Procedures. In our view, Philips did not have sufficient information to determine whether it had a basis for protest until after the debriefing of June 18, 1982. At most, DOE told Philips on June 9, 1982, that Philips' equipment was generally deficient in the areas of security, footnoting and hyphenation. Only at the later debriefing did DOE clarify specifically how and why Philips' equipment was considered deficient in these areas. In fact, DOE admits that it "elaborated" at

the debriefing on the areas in which it found Philips' equipment deficient. It is settled that a protester may delay the filing of its protest until after a debriefing when the information available earlier left uncertain whether there was any basis for protest. See Control Data Corporation, B-197946, June 17, 1980, 80-1 CPD 423; Lambda Corporation, 54 Comp. Gen. 468 (1974), 74-2 CPD 312. Thus, Philips' protest concerning the deficiencies is timely since it was filed within 10 working days after Philips knew its basis for protest. However, as to Philips' additional grounds of protest--which were known no later than June 2, 1982,--these grounds must be considered untimely filed.

Regarding the merits of Philips' protest, DOE argues that a built-in security system is essential to safeguard "[the] court briefs, congressional correspondence, and other critically sensitive materials" of DOE's Regulatory Mitigation Division. Philips argues that it is unnecessary to have a built-in security system to restrict access to data or texts stored on word processor discs since adequate security can allegedly be provided by locking equipment discs in a file drawer or safe if necessary; moreover, Philips argues that the disc part of its equipment contains a "form of security" which prevents "editing or printing" of stored information.

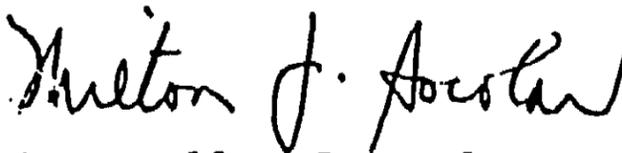
We consistently recognize that contracting agencies have great discretion in determining their needs and how best to satisfy them. Fentech Division, Houdaille Industries, Inc., B-192453, June 18, 1980, 80-1 CPD 427. Since the agencies are most familiar with their particular needs, they are in the best position to determine their future requirements. Maremont Corporation, 55 Comp. Gen. 1362 (1976), 76-2 CPD 181. We therefore will not question an agency determination of its needs unless the protester meets its burden of proof by convincing evidence that the agency determination is unreasonable. Integrated Forest Management, B-200127, March 2, 1982, 82-1 CPD 182.

DOE says that it reasonably needs the greater degree of security that a built-in (or password) security system provides over the security provided by locking up discs. We cannot question DOE's stated need or the agency's further position that the security device found in Philips' discs is insufficient. Specifically, the company does not contend that its disc security device prevents access to the stored information; rather, the company contends only that the device prevents editing or printing of stored information.

Thus, Philips' contention merely reflects its disagreement with DOE's technical opinion. A protester's

stated disagreement with an agency's opinion does not meet its burden of proof of showing that opinion to be unreasonable. Integrated Forest Management, supra. Since the need for a built-in security system was of a critical importance, Philips' system was properly excluded from consideration. Therefore, it is unnecessary to pass upon the merits of Philips' contentions as to the footnoting and hyphenation features, or the contentions concerning leadtime and unanswered telephone calls even if timely raised.

The protest is denied.

for 
Controller General
of the United States