

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

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FILE: B-211009.2**DATE:** November 14, 1983**MATTER OF:** National Micrographics System**DIGEST:**

Requirement which limits potential offeror's freedom to propose product it believes will be suitable to meet agency's needs is an undue restriction on competition where record shows that restriction is based on unsupported conclusions, and information provided by the protester, unrefuted by agency, indicates firm's product can meet agency's stated needs and the same product has been acceptable to agency under prior procurement.

National Micrographics Systems (NMS) protests the specifications in invitation for bids (IFB) No. DAAG08-83-B-0015, for portable microfiche viewers, issued by the United States Army Sacramento Army Depot (Army).

Because of revisions made to the specifications in response to NMS's protest, NMS's remaining basis of protest is that the requirement that the viewer have "front projection capability" is unduly restrictive. NMS contends that there is no justification for eliminating rear projection viewers, which NMS markets, from the competition and that this restriction effectively will result in a sole-source award to Bell & Howell. The IFB was originally a brand name or equal, the brand name being Bell & Howell's "Commuter" model. The brand name has been deleted, but the salient features contained in the IFB describe this model. The Army denies that the specification is unduly restrictive.

We sustain the protest.

A solicitation provision which limits potential offerors' freedom to propose products they believe are suitable to meet an agency's needs is an undue restriction on competition unless the contracting authority can establish a prima facie basis for the requirement. Data Card Corporation, Orbitran Division, B-202782, October 8, 1981, 81-2 CPD 287; Federal Energy Regulatory Commission--Reconsideration,

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B-198448.3, June 24, 1981, 81-1 CPD 523; Memorex Corporation, B-195053, April 7, 1980, 80-1 CPD 253. Contracting agencies may impose restrictions on competition only if it can be shown that after careful consideration of all relevant factors, the restriction is deemed necessary to meet the agency's actual needs, since the benefit of competition, both to the government and the public, in terms of price and other factors, is directly proportional to the extent of the competition. We examine the adequacy of an agency's position not simply with regard to the reasonableness of the rationale asserted, but by examining the analysis given in support of those reasons. R & H General Contractors, Inc.; Reynolds Aluminum Building Products Company, B-208776, B-208776.2, June 8, 1983, 83-1 CPD 625; Constantine N. Polites & Co., B-189214, December 27, 1978, 78-2 CPD 437. Here, the Army's justifications fail this test.

The Army engineer's explanation for its requirement for "high gain front projection technology" is that:

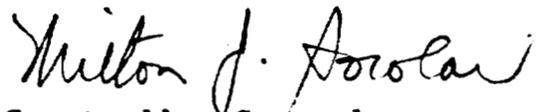
"Experience with various projection techniques employed in high ambient light situation has shown that a shrouded screen with a relatively high gain is superior to other types of project systems (i.e., rear projection or flat matt screen), when image illumination and viewer projection are approximately the same."

NMS challenges the Army's conclusion that the front projection systems are superior to rear projection because the Army fails to provide data or references to tests which support the Army's experience. NMS points out that the only Army evaluation of viewers it is aware of found that the NMS rear projection model was higher ranked than the Bell & Howell model for off-road, field usage, the conditions under which the Army proposes to use the equipment. NMS's model received equal or higher points for screen reflectance, display luminance-falloff, and display luminance, features which appear to be the basis for the Army's preference for front projection equipment. NMS points out that specifications under previous Army IFB's permitted bidders to offer rear projection systems and that NMS has been awarded contracts for its rear projection equipment. NMS continues to assert the Army has provided no basis for the more restrictive specification under the current IFB. We agree with NMS.

We are not persuaded by the Army's stated rationale for limiting competition to front projection systems. The Army has provided no information to support the Army engineering experience that the front projection system is superior. Furthermore, establishing the front projection system's superiority per se would not provide a prima facie basis for the requirement, since the Army specifically has not shown why or how the rear projection system would not meet its needs. In fact, the Army study, which the Army has not challenged or distinguished, shows that for the off-road, field use, conditions in which the Army will use the equipment, the NMS rear projection system is, at a minimum, equal to the Bell & Howell front-end projection system, which it is undisputed was the model upon which the specifications were based. The Army also has not responded to NMS's point that under prior solicitations, specifications permitted bidding of rear projection systems, nor given the rationale for the more restrictive specification this year. Thus, the available record indicates that rear projection equipment would meet agency needs and that it has been acceptable to the agency under prior procurements which NMS has been awarded.

In sum, the Army has not established any basis for the restriction of the IFB to front projection capable systems. In these circumstances, we find that the Army has failed to satisfy the threshold requirement of establishing that the specification reflects its minimum needs. We conclude, therefore, that these specifications are unduly restrictive of competition.

The protest is sustained. Since the bid opening date for this IFB was extended until this protest was resolved, corrective action is possible. By letter of today, we are recommending that the IFB specifications be revised to permit bidding of rear projection systems consistent with all other specification requirements.



Acting Comptroller General
of the United States