



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Westinghouse Electric Corporation, Furniture
Systems Division
File: B-224410.2
Date: October 3, 1986

DIGEST

Where a protester challenges a specification as unduly restrictive of competition this Office will not question the agency's determination of its actual needs unless there is a clear showing that the determination has no reasonable basis. Agency has shown that commercial item descriptions for modular furniture will not meet its needs in facility that will process classified information.

DECISION

Westinghouse Electric Corporation, Furniture Systems Division (WFS), protests the specifications of invitation for bids (IFB) No. DAKF11-86-B-0048, issued by the Department of the Army for a modular system of movable office partitions and free standing furniture to be located in Headquarters (HQ), United States Army Forces Command (FORSCOM) and Control Facility at Fort McPherson, Georgia.

The protest is denied.

WFS alleges that the specifications are restrictive and that only one manufacturer, Steelcase, can comply with them inasmuch as they represent Steelcase's product line for modular furniture. WFS states that adequate modular furniture can be obtained through the use of generic specifications developed by the General Services Administration and identified as Commercial Item Descriptions A-A-2236, A-A-2237, A-A-2238, A-A-2239, A-A-2240, A-A-2241 and A-A-2242 (CIDs).

WFS contends that the Army's use of National Security Memorandum 5203 (NSM 5203), a classified document that establishes national security policy for classified processing facilities, is unnecessary as a standard for evaluation and serves only to keep manufacturers with metal panel connectors from being qualified. WFS states that its steel post connectors, which hinge panels together, are used at other

high security agencies and installations, such as the Pentagon. It argues that the WFS products would not be used there unless these products met every requirement for security. Additionally, WFS states that since a copy of NSM 5203 is not included in the solicitation it has to guess as to whether its product conforms. WFS requests that it be granted security clearance to review NSM 5203.

WFS also challenges other solicitation requirements as restrictive. These include the requirement that painted surfaces be baked enamel rather than epoxy painted surfaces, which have been approved by GSA and are equal to or better than enamel. WFS also states that while it can meet or exceed the specification regarding steel gauge, the specifications are prejudicial and reflect the product of one manufacturer. Finally, WFS states that there is no reason to require four wires for the electrical systems in the panels, and that only one manufacturer is capable of providing the four-wire system. WFS argues that any procurement that has been amended seven times, as has this one, must contain serious problems. WFS requests that the Army cancel the solicitation and procure the modular furniture under the CIDs referred to above.

The Army states that a new command and control facility is being built to house the HQ FORSCOM staff. The facility is designed with few permanent interior walls and various staff groupings will be separated by freestanding panels/partitions, and individual action officers' workstations will have freestanding modular furniture. Each workstation, of which there are several thousand, will have at least one computer terminal capable of accessing classified data and at least one telephone. The Army states that in view of FORSCOM's mission, security at the facility has been a priority consideration. The entire design of the building incorporates a series of measures to contain and control all electronic transmissions that originate or terminate within the building.

The Army reports that within each workstation, data processing and telecommunications equipment will process classified and unclassified information, and the classified information must be electrically separated and isolated when processed. The electrical separation and isolation must be accomplished within and as a part of the furniture that makes up the individual workstations, and this involves the identification and separation of classified (Red) and unclassified (Black) equipment, circuits, electrical conductors, etc. The reason for the separation is to prevent the unintended emanation of classified signals to a nonclassified device or

area, thus jeopardizing the security of the classified signal. The Army states that if precautions are not taken, the modular panels could become conductors of classified information.

The Army states that when the solicitation was originally issued it was thought that the only way to prevent electrical emanations from passing between panels was by using plastic connectors between the panels. However, amendment 0006 was added to allow any method of connecting the panels so long as no electrical emanations are transmitted between panels.

With regard to WFS's contention that other security installations, such as the Pentagon, are satisfied with WFS's equipment, the Army states that the Pentagon employs a different method of controlling classified information. The Pentagon is an all Red facility in which built-in filters keep classified information from exiting, whereas this facility is not an all Red facility and does not have these filters.

It is the Army's view that the CIDs, which do not address security matters, would be insufficient. Moreover, the Army points out that the General Services Administration has granted the Army a one-time delegation of procurement authority to purchase modular furniture without limiting the Army to the CIDs. Finally, the Army states that since NSM 5203 is a classified document, it has not been provided to any of the offerors. However, the Army contends that offerors do not have to guess whether their products conform to its requirements. The Army states that the solicitation provides that each panel must be electrically isolated from every other panel and if the offeror's product meets this requirement it will have met NSM 5203 for the purposes of the solicitation.

In its comments on the Army's report, WFS contends that NSM 5203 does not deal with modular panels, but with fixed wall panels/partitions within a building. Since modular panels are not directly attached to the building, WFS argues that NSM 5203 does not apply since electrical impulses cannot be detected outside of the building.

We note initially, with regard to WFS's request for security clearance to examine NSM 5203, that this Office has no authority to either grant or deny security clearances to potential offerors.

The determination of the government's minimum needs and the best method of accommodating those needs are primarily the responsibility of contracting agencies. We have recognized that government procurement officials, since they are the ones most familiar with the conditions under which supplies, equipment or services have been used in the past and how they are to be used in the future, are generally in the best position to know the government's actual needs. Consequently, we will not question an agency's determination of its actual needs unless there is a clear showing that the determination has no reasonable basis. Jones Refrigeration Service, B-221661.2 May 5, 1986, 86-1 C.P.D. ¶ 431.

Where, as here, a protester challenges a specification as unduly restrictive of competition, the initial burden is on the procuring agency to establish prima facie support for its contention that the restrictions it imposes are necessary to meet its minimum needs. Once the agency establishes prima facie support, the burden is then on the protester to show that the requirements complained of are clearly unreasonable. Marquette Electronics, Inc., B-221334, Mar. 13, 1986, 86-1 C.P.D. ¶ 253.

The Army has described a reasonable basis for its requirement that Red and Black equipment, circuits, electrical conductors, etc., be isolated and separated. The method by which classified information is contained within the facility necessitates a different approach to that which may have been used in all Red installations such as the Pentagon and the use of CIDs for standard modular furniture was inappropriate here. The Army made a good faith effort to reduce unnecessary restrictiveness in the specifications when it dropped the requirement that plastic panel connectors be used and when it allowed offerors to use any panel connector so long as no electrical emanations are transferred between panels. The Army has stated that once the panels are electrically isolated, the requirements in NSM 5203 will have been met.

As to WFS's argument that NSM 5203 does not apply, we note that the Army states that NSM 5203 establishes national security policy for classified processing facilities. These guidelines are applicable to all United States Government agencies responsible for installation of equipment/systems to process classified information. The Army has stated that NSM 5203 is applicable to prevent the unintentional transmissions of classified information between furniture panels. It is not sufficient merely to prevent Red signals from exiting the building. Here the Army must prevent Red signals from crossing from one workstation to another via the modular

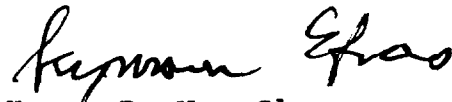
panels. We have held that a mere difference of opinion between the protester and the agency concerning the agency's needs is not sufficient to upset the agency's determination. Owl Resources Company, B-221296, Mar. 21, 1986, 86-1 C.P.D. ¶ 282.

As to WFS's contention that the requirement that all painted surfaces be baked enamel is restrictive, the Army points out that all but one of the above-cited CIDs favored by WFS require that painted surfaces be baked enamel. Moreover, the one CID that allows the use of epoxy paint requires that the sample be submitted in baked enamel. The Army contends, and WFS has not shown that it is erroneous, that baked enamel is the industry standard for painted metal surfaces and is not restrictive of competition.

Although WFS states that the steel gauge requirements in the specification are restrictive, it notes that it can meet or exceed the requirements. The Army states that the steel gauge requirements relate to load bearing elements of hang-on shelf and cabinet components. Since the Army has stated a reasonable basis for its steel gauge requirements and WFS has not carried its burden of showing why the Army's requirements are clearly unreasonable, we deny this basis of WFS's protest. Marquette Electronics Inc., B-221334, *supra*. With regard to WFS's objection to the specification requirement calling for four wires for the electrical systems in the panels, the Army has notified us that it has modified the solicitation by amendment 0009 to allow a three wire system.

Finally, we do not agree with WFS's general allegation that a solicitation amended so many times shows that the solicitation is flawed. The Army has stated that after issuing the solicitation the HQ FORSCOM project manager, upon receiving industry input, gained a greater understanding of what was available from suppliers and accordingly issued amendments revising the solicitation so as to allow for greater competition. Our review of the amendments shows that they have eased many restrictive elements of the specification.

The protest is denied.

for 
Harry R. Van Cleve
General Counsel