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The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: World-Wide Security Service, Inc.

File: B-228718

Date: November 17, 1987

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### DIGEST

1. Protest that salient characteristics in brand name or equal solicitation for X-ray screening machines restricted competition based on alternate technologies is without merit where solicitation, as amended, clearly permitted alternate technologies with at least equivalent capabilities.

2. Requirement that offerors have units in place in several United States locations for purposes of evaluating machine operation and maintenance network is not unduly restrictive of competition merely because it does not provide for consideration of units in international locations, where record shows that, due to differences in environmental and geographical conditions, evaluation of domestic units is best means of establishing offeror's ability to meet the agency's minimum needs.

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### DECISION

World-Wide Security Service, Inc. protests that certain requirements included in request for proposal (RFP) No. RFP-87-7070, issued by the United States Marshals Service (USMS) for 48 X-ray screening systems are unduly restrictive. We deny the protest.

The USMS is procuring the X-ray screening systems on behalf of the United States courts for detection of weapons and explosive devices. The RFP solicited offers for delivery, demonstration, training, and maintenance for 48 units, and an additional optional 58 units, to be installed at over 44 different locations within the continental United States. The RFP, as amended, solicited offers on a "brand name or equal" basis, designating the Linescan System Four, or equal. Among the listed salient characteristics to be met by offered machines were state-of-the-art linescan technology, a photodiode-type detection system, and 90 KVCp X-ray voltage. Under the warranty provision, the successful contractor would be required to respond to a repair call within 24 hours after telephonic notification and have the

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unit operational within 48 hours of notification of system failure.

Award was to be made to the offeror whose proposal, conforming to the solicitation, was determined to be in the best interest of the government, price and other factors considered. The RFP included two equally weighted technical evaluation factors: (1) compliance with the specifications and salient features; and (2) maintenance and performance capability.

Evaluation of maintenance and performance, relevant here, was to include past performance, including timeliness of response, frequency of repair or calibration calls, and overall equipment downtime. Offerors were to show that the units offered had been in continued use for, preferably, a year at government or commercial facilities accessible to the government, so that inquiry and assessment could be made regarding the maintenance performance of the equipment and the contractor. Additionally, for purposes of this assessment, the RFP called for offerors to have approximately 20 units in operation in, preferably, 5 different locations within the United States, along with documentation of service to those units, and a map of their installation and management support organization showing a capability to respond to maintenance requests. The RFP explained that the USMS has no capability to service the X-ray screening systems and that because of the high level of security required in court facilities, a fast, effective maintenance service was essential.

World-Wide, which did not submit an offer by the amended closing date, first complains that the linescan, photodiode-type technology salient characteristics were restrictive of competition. The protester contends that the RFP did not permit offers of alternate/equal technologies, such as its own. The protester also complains that the requirement for units in operation at locations within the United States, along with documentation of the service to those units, was restrictive of competition. The protester argues that this requirement has no rational relation to good or bad maintenance practices and restricts competition from offerors like itself with units installed and maintained in international, rather than domestic, locations.

The Competition in Contracting Act of 1984 requires agencies to develop specifications to promote full and open competition, and permits use of restrictive provisions only to the extent necessary to satisfy agency needs or as authorized by law. 10 U.S.C. § 2305(a)(1) (Supp. III 1985). When a protester challenges specifications as unduly restrictive of competition, the burden is on the agency to

establish prima facie support for its contention that the restrictions it imposes are needed to meet its minimum needs. The adequacy of a justification is determined by examining whether the agency's explanation can withstand logical scrutiny. Worldwide Primates, Inc., B-227146 July 7, 1987, 87-2 CPD ¶ 21. Once the agency establishes such support, the protester, in order to prevail, must show that the challenged requirements are unreasonable. Janke & Co., Inc., B-225710 et al., June 12, 1987, 87-1 CPD ¶ 589. We find neither of the allegedly restrictive provisions improper under this standard.

First, there is no merit to World-Wide's assertion of a linescan, photodiode-type technology restriction in the RFP, since the RFP, as amended, clearly allowed alternate technologies, if equivalent. For each of these salient characteristics, the RFP stated that offers of alternate technology were permitted if "essentially equivalent in (a) functional and performance capabilities; (b) proven, demonstrable, verifiable long term reliability, economy, and nationwide availability and appropriate distribution of the requisite maintenance and service support; and (c) ease of maintenance." Thus, the challenged characteristics were set forth not to limit competition based on other technologies, but merely as a means of identifying the agency's functional needs.

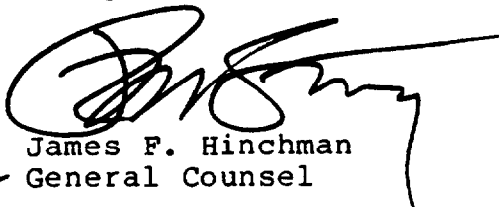
The agency states that the photodiode linescan technique was set forth as the desired standard because it represents the state-of-the-art in X-ray technology, corrects problems with past technologies, and will provide the most accurate available technical quality for detection of weapons and explosive devices. We find nothing in the record establishing that the agency's position in this regard is incorrect. While, at the bid protest conference held in our Office, the agency stated that it was not clear whether equivalent acceptable technologies actually exist, it is clear from the RFP that the agency was willing to evaluate proposals of alternate technologies to determine their equivalence. Under these circumstances, we find nothing objectionable in the agency specifying its needs in terms of a particular technology. This aspect of the protest thus is without merit.

World-Wide also has not shown that the requirement for the successful operation and maintenance of units solely within the United States is unduly restrictive. The agency argues that the requirement for units within the United States with a maintenance track record is reasonably related to the need for a high level of reliability in the security systems in federal court facilities, considering the volume of threats

currently, and a projected case load of high threat trials. The agency states that their intention for the contested requirement was to establish a sample from which judgments of reliability and maintenance response could be drawn based on conditions most closely approximating the conditions under which the units will be supplied, i.e., diverse geographical locations within the United States with the environmental factors experienced in this country such as humidity, lightning frequency, and electrical supply. The agency maintains that since it has no capability to service X-ray screening systems, the requirement for nationally installed units with documented service track records is essential for an accurate indication of the speed and effectiveness of an offeror's maintenance service.

The USMS is intent on assuring that the machines experience a minimal downtime and that the ultimate awardee has an established capability--as demonstrated by an existing, dispersed maintenance network--to service the machines once they are installed. While information as to an offeror's international operations could be somewhat indicative of an effective maintenance network, we think the USMS reasonably determined that a proven network spread throughout the United States is a better indicator of an offeror's ability to provide maintenance across diverse geographical areas within the United States. We conclude that the requirement for domestic units in service is reasonably related to the agency's need to obtain the most accurate information available as to an offeror's domestic maintenance capability, and serves the critical need for the protection of human life in federal court facilities. Our position here is consistent with our general view that where a solicitation requirement relates to human safety or national defense, an agency has the discretion to set its minimum needs so as to achieve not just reasonable results, but the highest possible reliability and effectiveness. See Marine Transport Lines, Inc., B-224480.5, July 27, 1987, 87-2 CPD ¶ 91; Doss Aeronautical Services, Inc., B-222914, Aug. 27, 1986, 86-2 CPD ¶ 232.

The protest is denied.

  
for James F. Hinchman  
General Counsel