Rupert

The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Deere and Company

File: B-234475

Date: May 23, 1989

DIGEST

Protest that specifications for a crawler tractor to be used in fire suppression unduly restrict competition by precluding hydrostatic transmissions is denied where the record supports the agency's determination that standardization of agency tractors is necessary due to cooperation between several agencies in fire fighting efforts and that operators' training and experience generally are with powershift, rather than hydrostatic, transmissions.

DECISION

Deere and Company protests that certain terms of invitation for bids (IFB) No. YA-651-IFB9-240011, issued by the Bureau of Land Management (BLM), Department of the Interior, are unduly restrictive. The IFB is for a crawler tractor for use in fire suppression in California; the tractor will be used to remove vegetation from rough and steep terrain and to construct fire lines.

We deny the protest.

In its initial protest submission, Deere contended that certain specification requirements--a minimum on the ground track length of 109 inches, a speed of at least 7 m.p.h. in reverse, and a powershift transmission with hydraulic steering clutches and brakes--were designed to eliminate the tractor it intended to offer (the John Deere model 850 with a hydrostatic transmission), and therefore unduly restricted competition. In response to the protest, BLM re-examined the specifications and concluded that the required minimum reverse speed could be reduced to 6.5 m.p.h., and that the minimum track length could be reduced to 107 inches, as requested by Deere, without compromising the government's minimum needs. BLM continues to maintain, however, that a powershift transmission is necessary to meet its unique fire suppression needs in California.

The record shows that in its normal configuration operation of a tractor with a hydrostatic transmission, as offered by Deere, is significantly different from operation of a tractor with a powershift transmission. Specifically, tractors with powershift transmissions are equipped with a foot-operated decelerator, which controls the engine speed and the forward and reverse speeds of the tractor; the operator's left hand is on the steering levers and his right hand is on the blade operations control lever. The powershift transmission thus allows the operator to control speed with the foot-operated decelerator and the steering with his left hand. In contrast, with a hydrostatic transmission, steering is controlled either by foot control pedals or, if dash-mounted levers are used, by the operator's left hand, which then must constantly shift back and forth between the steering lever and the speed control lever (while his right hand controls the tractor blade).

According to BLM, all fire fighting agencies in California, along with BLM, fight wildland fires in a cooperative manner, making interagency use of personnel and equipment necessary. Because of this arrangement, standardization of equipment and personnel is deemed critical in a fire situation; it is normal practice for a crawler tractor to be on the fire line for 24 hours a day, with operators switched as needed for each shift, so that operators from different training backgrounds must use the same equipment. in life-threatening situations. It is undisputed that the tractor operators generally have been trained, and have experience, on tractors with powershift transmissions; the Forest Service in California has only one tractor with a hydrostatic transmission (which is used for construction work and not fire suppression), while only 5 of the 150 tractors available to the California Department of Forestry and Fire Control have hydrostatic transmissions (these are used primarily on construction projects and have not yet been used in fire suppression).

BLM concluded that since tractors with hydrostatic transmissions operate significantly differently from equipment with powershift transmissions, most operators in the region are familiar with the powershift transmission, and the California terrain is rough and unpredictable, a tractor with a hydrostatic transmission would inject too much risk into an already dangerous task.

In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit bids or offers in a manner designed to achieve full and open competition, so that all responsible sources capable of

meeting the government's minimum needs are able to compete. 41 U.S.C. § 253(a)(1)(A) (Supp. IV 1986); Warren Oliver Co., B-228081.2, Dec. 3, 1987, 87-2 CPD ¶ 543. Consequently, when a protester challenges specifications as unduly restrictive of competition, the procuring agency bears the burden of presenting prima facie support for its position that the restrictions are necessary to meet its actual minimum needs. CAD/CAM On-Line, Inc., B-226103, Mar. 31, 1987, 87-1 CPD ¶ 366. Determinations of the agency's minimum needs and the best method of accommodating those needs are primarily matters within the agency's discretion and thus, once the agency establishes support for challenged specifications, the burden shifts to the protester to show that the specifications are clearly unreasonable. Warren Oliver Co., B-228081.2, supra.

We find that the agency has made a prima facie showing that the requirement for a powershift transmission is reasonably related to its minimum needs here. Due to the cooperative nature of the fire fighting effort in California, and the resultant interagency use of equipment and personnel, we find nothing objectionable in BLM's aim to achieve equipment standardization; this appears to be a reasonable means of assuring the safe, effective operation of the equipment. Since tractor operators have been trained and have experience on equipment with powershift transmissions, we think it follows that standardization reasonably necessitated a powershift transmission to the exclusion of hydrostatic transmissions.

We also find that Deere has not established that the restriction is clearly unreasonable. Deere first argues in support of its position that heavy equipment operators can readily adjust to hydrostatic transmissions. We find no evidence in the record, however, disputing BLM's determination that the difference between operating a powershift tractor and a normally configured John Deere 850 tractor with hydrostatic transmission is significant in practice, not merely in theory. Not only has Deere provided no evidence that the apparent differences are of little practical significance, but the agency has submitted a Forest Service accident report suggesting that the differences can be important. The report discusses a 1988 accident in which a John Deere 850 tractor with a hydrostatic transmission rolled over during fire fighting operations in rough terrain. According to the report, an otherwise experienced operator who nevertheless was unfamiliar with hydrostatic transmissions, "when faced with an unplanned situation which required immediate action without the time to make a conscious decision . . . automatically reverted" to use of the controls as if he was

operating a powershift tractor, thereby causing the rollover. The report concludes that it would require approximately 1,000 hours of experience with the hydrostatic transmission for an operator to acquire the capability for the automatic, instinctive responses necessary to operate a tractor in fire operations in steep terrain.

Deere also maintains that the powershift transmission restriction is unnecessary because its John Deere 850 tractor can be equipped with controls in the same configuration as the powershift transmission controls. Deere believes that BLM therefore should remove the restriction against hydrostatic transmissions and instead direct their specifications to the types of controls needed.

Even if Deere could supply its John Deere 850 tractor with controls modified to resemble powershift controls, we do not believe that the agency was required to permit such modifications. In this regard, BLM reports that Deere representatives and dealers advised the agency that they "highly discouraged" such modifications because: (1) they would result in increased operating temperatures and decreased operating efficiency, and (2) field maintenance on the modified transmission would not be possible and the equipment instead would have to be transported to a John Deere dealership for specialized maintenance and repair. We consider this information provided a sufficient basis for BLM to preclude Deere from offering its modified tractor for this requirement.

We have previously recognized that an agency may require the standardization of security systems such that new equipment will interface with previously-installed equipment even though, as a result of the interface requirement, contractors will be required to furnish interface equipment from a single company. Kastle Systems, Inc., B-231990, Oct. 31, 1988, 88-2 CPD ¶ 415. We find the rationale for standardization even more compelling where, as here, the agency is procuring equipment that routinely will be used in life-threatening situations by operators from different agencies, and where, moreover, it does not appear that the restriction limits competition to one firm.

We conclude that Deere has not shown the challenged requirements to be unreasonable. An agency's determination of its minimum needs is not unduly restrictive merely because the

protester disagrees with it, or because the protester cannot comply with particular requirements. Warren Oliver Co., B-228081.2, supra.

The protest is denied.

James F. Hinchman
General Counsel