

DOCUMENT RESUME

02387 - [A1572559]

[Reconsideration of Decision Holding That the Government Overstated Its Minimum Needs]. B-187604. May 25, 1977. 2 pp. + 3 enclosures (3 pp.).

Decision re: ABS Duplicators, Inc.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).  
Contact: Office of the General Counsel: Procurement Law I.  
Budget Function: General Government: Other General Government (806).

Organization Concerned: Department of Labor; Kaufman DeDell Printing, Inc.; Silver Spring Blueprinting Co.; TS Info Systems.

Authority: 41 U.S.C. 253. B-182161 (1975).

Kaufman DeDell Printing, Inc., requested reconsideration of a prior decision holding that a Department of Labor solicitation for photocopy services overstated the Government's minimum needs and recommending the resolicitation of the requirements. The allegation by the protester that the award should be directed to it without resolicitation was without merit, because to do so would result in Government procurement of more than its minimum needs. The prior decision was reaffirmed. (Author/SC)

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**DECISION**



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

**FILE: B-187604**

**DATE: May 25, 1977**

**MATTER OF: ABS Duplicators, Inc., Reconsideration**

**DIGEST:**

Prior decision holding that solicitation overstated Government's minimum needs and recommending resolicitation of requirements is affirmed upon reconsideration. Allegation by protester that award should be directed to it without resolicitation is without merit because to do so would result in Government procuring more than minimum needs.

Kaufman DeDell Printing, Inc. (Kaufman), has requested reconsideration of our decision in the matter of ABS Duplicators, Inc., et al. 56 Comp. Gen. \_\_\_\_\_ (B-187604, April 8, 1977).

The decision found that the Department of Labor had overstated its minimum needs in a solicitation for photocopy services and recommended that the requirement be resolicited under a solicitation which accurately reflects its minimum needs.

Kaufman was one of three bidders who protested the award to TS Info Systems (TS Info). Kaufman's protest was based on the allegation that an amendment to its bid, which had been transmitted by certified mail five days prior to bid opening, was mishandled by the Government and returned to Kaufman unopened. Kaufman contends that its amended prices were below those bid by TS Info.

Kaufman's request for reconsideration is based on the fact that our decision of April 8 did not treat Kaufman's protest on the merits.

The reason we did not reach the merits of Kaufman's protest was because we found the contention raised by Silver Spring Blueprinting Company (SSB) in its protest displayed an overriding defect in the solicitation. SSB contended that TS Info was supplying less expensive photocopy machines to Labor than those machines required under the specifications in the solicitation. Labor admitted that TS Info was supplying nonconforming equipment but that such equipment meets its needs. Based on this information, we held that Labor had overstated its minimum needs in the solicitation and this overstatement may have caused bidders to submit higher prices and made the above-noted recommendation.

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While Kaufman argues that it remains prepared to comply with the original specifications, as noted, those specifications overstated the Government's actual needs and it is likely that under the resolicitation, lower prices would be received for the furnishing of less expensive equipment. Therefore, the solicitation was inconsistent with 41 U.S.C. § 253 (1970) which contemplates full and free competition for the property and services necessary to meet the requirements of the Government. Consistent with the purpose of the statute, solicitations must be such as to allow competition on an equal basis and conditions or limitations which have no reasonable relation to the Government's needs are improper. CSA Reporting Corporation, B-182161, January 31, 1975, 75-1 CPD 70.

Accordingly, to recommend an award to a bidder under the instant solicitation, as Kaufman argues should have been made here, would be violative of the above standard and the Government would be knowingly contracting for more than its now recognized minimum needs.

For the above reasons, the decision of April 8, 1977, is affirmed.

  
Deputy Comptroller General  
of the United States



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

*James Heckler*  
*Proc. I*

MAY 25 1977

B-187604

The Honorable John L. McClellan  
Chairman, Committee on Appropriations  
United States Senate

Dear Mr. Chairman:

Enclosed is a copy of the reconsideration of our decision of April 8, 1977, in *AMS Duplinners, Inc., et al.*, B-187604 in which we recommended to the Secretary of Labor that certain corrective action, including possible termination of the contract for the convenience of the Government, be taken because of certain deficiencies in connection with a procurement for photocoopy services.

The April 8 decision was previously forwarded to your committee pursuant to section 236 of the Legislative Reorganization Act of 1970, 31 U.S.C. § 1176 (1970).

Sincerely yours,

R.F. KELLER

Deputy Comptroller General  
of the United States

Enclosure

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

*James Vickers*  
*Page 2*

B-187604

MAY 25 1977

The Honorable Jack Brooks  
Chairman, Committee on Government Operations  
House of Representatives

Dear Mr. Chairman:

Enclosed is a copy of the reconsideration of our decision of April 8, 1977, in *ABI Duplicators, Inc., et al.*, B-187604 in which we recommended to the Secretary of Labor that certain corrective action, including possible termination of the contract for the convenience of the Government, be taken because of certain deficiencies in connection with a procurement for photocopy services.

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Sincerely yours,

R.F. KELLER

Deputy Comptroller General  
of the United States

Enclosure

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

*James Vachus*  
*Part I*

MAY 25 1977

B-187604

The Honorable Abraham A. Ribicoff  
Chairman, Committee on Governmental Affairs  
United States Senate

Dear Mr. Chairman:

Enclosed is a copy of the reconsideration of our decision of April 8, 1977, in *ARS Duplicitors, Inc., et al.*, B-187604 in which we recommended to the Secretary of Labor that certain corrective action, including possible termination of the contract for the convenience of the Government, be taken because of certain deficiencies in connection with a procurement for photocopy services.

The April 8 decision was previously forwarded to your committee pursuant to section 236 of the Legislative Reorganization Act of 1970, 31 U.S.C. § 1176 (1970).

Sincerely yours,

R. V. KELLER

Deputy Comptroller General  
of the United States

Enclosure

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

*James Vickers*  
*Proc I*

B-187604

MAY 25 1977

The Honorable George H. Mahon  
Chairman, Committee on Appropriations  
House of Representatives

Dear Mr. Chairman:

Enclosed is a copy of the reconsideration of our decision of April 8, 1977, in ABS Duplicators, Inc., et al., B-187604 in which we recommended to the Secretary of Labor that certain corrective action, including possible termination of the contract for the convenience of the Government, be taken because of certain deficiencies in connection with a procurement for photocopy services.

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R.F. KELLER

Deputy Comptroller General  
of the United States

Enclosure

Ydm