

DECISION**DIGEST - L - Corst****THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

79-2 CPD 284

628

FILE: B-195043.2

DATE: October 24, 1979

MATTER OF: Dictaphone Corporation - Reconsideration

DIGEST:

Where request for reconsideration essentially only restates argument previously considered, prior decision is affirmed.

Dictaphone Corporation (Dictaphone) requests reconsideration of our decision in Dictaphone Corporation, B-195043, September 25, 1979, 79-2 CPD, in which we denied the firm's protest against the issuance by the Federal Bureau of Investigation (FBI) of a delivery order to Lanier Business Products, Inc. (Lanier), for dictation equipment under the then current General Services Administration (GSA) Federal Supply Schedule (FSS) Contract No. GS-005-66650.

Dictaphone had protested that at the time the order was issued Dictaphone was the lowest cost supplier under the FSS contract for the dictation equipment that would meet the FBI's needs based on a price reduction approved by GSA during the term of the contract. Dictaphone also protested that the Lanier units purchased were not "in current production" when offered by Lanier to GSA under the FSS contract, which Dictaphone contended was a violation of that contract's terms.

We found that since Dictaphone had failed to fulfill its responsibility to make the price reduction known to the FBI or other agencies, the FBI's reliance on otherwise current data showing Lanier as the lowest-priced FSS supplier was proper. With respect to the other issue, we stated:


"* * * clause 494 of the FSS contract with GSA, entitled 'Workmanship,' provides that 'Any item contracted

for must be new, current model at the time of offer, unless otherwise specified. * * * Thus, a model offered under an FSS contract only must be a new and current model at the time of offer, not necessarily in current production, as argued by Dictaphone. Since there is nothing in the record to indicate that the Lanier units were other than new and current models when they were offered to GSA in 1978, we find no merit to this contention."

In its present request, Dictaphone argues that Lanier's equipment in fact was not "new and current" in 1978. The basis therefor is a letter from a firm that Dictaphone alleges is the manufacturer of the equipment at issue which states that production of the equipment was discontinued on June 8, 1977.

However, as we clearly pointed out in our September 25 decision, the fact that production of an item may have ceased before it was offered to GSA under an FSS contract is not dispositive of the issue of whether it was "new and current" at the time of offer. In any event, no useful purpose would be served by any further consideration of this matter by our Office, since Lanier's contract with GSA expired on June 30, 1979. See Anchor Mental Health Association, B-192500, September 12, 1978, 78-2 CPD 194.

The request for reconsideration is denied.


Deputy Comptroller General
of the United States