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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20549

FILE: B-195423

DATE: December 19, 1979

MATTER OF: Dictaphone Corporation C1046

DIGEST: Protest Against

Purchase of other than lowest-priced dictating equipment from Federal Supply Schedule is justified where, among other things, there is need for compatibility.

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✓ Dictaphone Corporation (Dictaphone) protests the award by the Department of Justice (DOJ) of an order for dictating equipment to Lanier Business Products, Inc. (Lanier), under a Federal Supply Schedule contract. Dictaphone objects to the award because its quotation was \$5,484.85 less than that submitted by Lanier. For the reasons that follow, Dictaphone's protest is denied.

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Under Federal Property Management Regulations (FPMR) § 101-26.408-2, an agency must justify its decision to pay more than the lowest price available under the Federal Supply Schedule. One justification for selection of a higher-priced item is that "[i]t is essential that the item selected be compatible with items or systems already existing within using offices." FPMR § 101-26.408-3. DOJ's primary justification for this award was that Lanier equipment would be most compatible with existing equipment in the Philadelphia United States Attorney's Office.

Dictaphone disputes DOJ's assertion that most of the equipment in the office prior to the award was from Lanier. One of the justification memos from the Philadelphia office stated that the office had between 25 and 30 Lanier units. Another memo said that 95 percent of the equipment was Lanier. According to Dictaphone, however, the office's administrative officer told Dictaphone that there were 10 Lanier and 10 Dictaphone units.

In his response to this protest, the First Assistant United States Attorney states that at the time of the award

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there were 29 pieces of Lanier equipment and 10 pieces of Dictaphone equipment. He explains the inconsistencies in the record as follows. First, the 95-percent estimate was either a simple mistake or a typographical error. Second, Dictaphone's conversation with the administrative officer probably took place earlier in time when the office did not have as much Lanier equipment. It is not necessary to decide the exact ratio of Lanier to Dictaphone equipment since the record supports DOJ's statement that at the time of award the bulk of the existing equipment was Lanier's.]

The Philadelphia office felt that efficient office operation would be served by using only one type of dictating equipment. Since Lanier machines comprised the majority of existing equipment, the office asked DOJ procurement to satisfy its requirements with Lanier machines.

The Philadelphia office asserted that using only one type of dictating equipment would offer the following advantages:

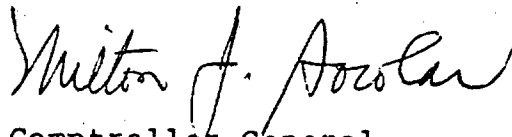
- (1) No necessity to match up dictating and transcribing units.
- (2) Personnel only have to be trained to use one type of machine.
- (3) Requires dealing with only one service company, and all broken machines can be fixed on one call.

In addition, the advantage of Lanier equipment is that the basic unit converts from a dictater to a transcriber by attaching different parts.

A justification for ordering a higher-priced item from the Federal Supply Schedule must be adequately substantiated. However, the fact that the protester disagrees with the agency's reasoning is not necessarily sufficient to show the justification is objectionable. Dictaphone Corporation; Business Equipment Center, Ltd., B-192314, B-192373, November 14, 1978, 78-2 CPD 345.

Our function is to review the reasonableness of the agency's justification, not to decide what supplier's equipment should be purchased. Thus, we will not object to an agency's justification unless it is clearly shown to have no reasonable basis. Olivetti Corporation of America, B-195243, September 21, 1979, 79-2 CPD 212. We cannot say that DOJ's justification in this case was without a reasonable basis.

Therefore, the protest is denied.



For the Comptroller General
of the United States