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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: Handheld Systems, Inc.

File: B-288036

Date: August 10, 2001

Michael Berg for the protester.

Marion T. Cordova, Esq., Department of Agriculture, for the agency.

Katherine I. Riback, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's tests of offered handheld field computers were reasonable where they were consistent with the specifications and simulated actual field use.

DECISION

Handheld Systems, Inc. protests the award of a contract to Juniper Systems, under request for quotations (RFQ) No. 20-01-046, issued by the Forest Service, Department of Agriculture, for handheld field computers.

We deny the protest.

The agency issued the RFQ on April 11, 2001 as a commercial item acquisition. The RFQ included a list of specifications. Many of the specifications were labeled critical or essential, whereas others were labeled very desirable or desirable. The solicitation provided that award was to be made based on price and technical factors. The technical factors were warranty information, delivery time, and how well the proposed handheld field computers met the specifications.

The agency received eight quotes by the May 1 due date. Five quotes, including Handheld's, were found not to have met the specifications. The three acceptable quotes all offered the same model handheld computer. The agency made award to Juniper Systems on May 7, because it submitted the lowest price of the acceptable quotes.

On that same day, Handheld found out that its quote had not been selected and requested a debriefing. At the agency's request, Handheld sent a list of questions to

the agency regarding the evaluation of its product and the award to Juniper. In response, Handheld was furnished a written debriefing letter responding to the questions. Upon receipt, Handheld verbally notified the agency on that date that one of its questions concerning the compliance of Juniper's offered product with certain specifications had not been answered, and that it would like to discuss this and other matters with the agency. On May 24, the agency sent Handheld another letter that explained why Juniper's product met the questioned specifications. In response, Handheld specifically requested a description of the battery testing procedures, including system settings, such as backlight setting and processor speed, that the agency used in testing the products offered in response to the RFQ. The agency provided the requested information in a June 6 letter. Upon receipt of this information, Handheld filed this protest in our Office on June 11.

Handheld, while admitting that its offered computer does not comply with various specifications, contends that Juniper's computer did not meet several "critical" specifications, that is, the requirement that the operating system be Oracle Lite compatible, the minimum memory/storage requirements, and the battery operating life requirements pertaining to normal battery life and low temperature battery life. Handheld claims its offered computer actually comes closer than Juniper's to complying with the specifications.

Some of Handheld's protest grounds are untimely. Specifically, Handheld knew of its bases for protest regarding whether Juniper's computer met the RFP specifications regarding operating system compatibility and memory/storage requirements, at the latest, when it received the May 24 agency letter explaining why Juniper met these specifications; it obtained no additional information concerning these protest bases after its receipt of this letter. Our Bid Protest Regulations contain strict rules for the timely submission of protests. Under these rules, a protest based on other than alleged improprieties in a solicitation must be filed no later than 10 calendar days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (2001). The fact that Handheld may not have been satisfied with all aspects of the debriefing it received, and that it continued to pursue certain questions with the Forest Service, did not extend the time for filing a bid protest. See Robert B. Hammett—Recon., B-253720.2, B-253721.2, Aug. 3, 1993, 93-2 CPD ¶ 76. Thus, the protest grounds regarding operating system compatibility and memory/storage requirements, raised more than 10 days after May 24, are dismissed as untimely.

With regard to battery operating life requirements, Handheld contends that the battery test procedures unfairly favored the computer that Juniper quoted, and that the computer that Handheld quoted would have satisfied these requirements and

Juniper's computer would not have, if proper tests had been conducted.¹ Specifically, Handheld contends that, when the operating life of Juniper's battery was tested, the processor speed and the backlight intensity on the computer were set at very low settings; Handheld contends that a proper test of battery life would have been to set processor speed and backlight intensity on the tested computers at the same higher settings, in which case its computer would have passed the tests and Juniper's would not have.

An agency's evaluation of technical proposals is primarily the responsibility of the contracting agency; the agency is responsible for defining its needs and the best method of accommodating them, and must bear the burden of any difficulties resulting from a defective evaluation. Roche Diagnostic Sys., Inc., B-255578.4, Sept. 16, 1994, 94-2 CPD ¶ 103 at 5. An agency should be afforded considerable discretion to establish the tests or procedures necessary to determine product acceptability, and we will not disturb the agency's determination unless it is shown to be unreasonable. Id. at 7.

The specifications indicate that battery operating life tests would be conducted and stated the parameters of the tests. The specifications do not mention any particular processor speed and backlight intensity settings on the computers during such tests.

The agency explains that the battery tests it employed are based on its "battery drain procedure," which has been used for several years and which can predict with a high degree of certainty the actual field performance of the handheld computers and their batteries. This procedure can be run at fast, medium and slow battery drain rates, and, for the test, the various settings, including backlight and processor speeds, are specified to allow the offered system to use power management to power back and conserve battery power during the test, so as to simulate actual field use. The agency states that Handheld knew or should have known from the specifications that the agency intended to use appropriate power conservation features, such as backlight power management and reduced processor speed, to achieve longer battery life during testing because this is how the computers will be used in the field. Specifically, the agency references the specifications stating "[n]ormal operating conditions are defined as 1 hour of backlight during low light conditions, keyboard entry and power management is used," and "[l]onger life should be achievable by optional reduction in clock [processor] speed." RFQ at 12; Agency Supplemental Submission (July 6, 2001) at 1.

Here, the protester has not shown that the agency's method of testing the handheld computers was unreasonable or inconsistent with the specifications or that the tests failed to simulate normal daily use. It appears that Juniper's model has adjustable

¹ We consider this protest contention, based primarily upon the agency's June 6 letter to Handheld, to be timely.

settings for processor speed and backlight settings, which Handheld's computers lacked. See Handheld's Comments at 5. Therefore, Juniper's computers were able to be tested in part at lower settings than Handheld's computers, and these low settings had a "dramatic [e]ffect on battery life." Id. The protester essentially argues that, to level the playing field to account for the fact that Handheld's computer lacks the adjustable settings for backlight and processor speed that are on Juniper's, Juniper's computer should have been tested at the same, much higher settings as those used to test Handheld's computer. It appears that what the agency did during the test was to take advantage of a feature that the awardee's computers possessed, adjustable settings, that the protester's computers did not have. Since the solicitation did not specify any particular setting for backlight or processor speed, and the agency has justified the settings that it did choose as simulating actual field use, we find the agency's actions reasonable.

The protest is denied.

Anthony H. Gamboa
General Counsel