

Protest of ) Date: November 25, 1987  
MAGNETIC DATA )  
Solicitation No. 059990-87-A-B035 ) P.S. Protest No. 87-109

### DECISION

Magnetic Data (Magnetic) timely protests the terms of Solicitation No. 059990-87-A-B035 for magnetic computer tape.<sup>1/</sup> Magnetic protests the solicitation provision in Section C.1 (Description and Specification) which precludes offers of "reconditioned" tape. The protester states that its product meets the other specification requirements, that the computer tape will be used only twice (recorded by postal personnel and read by the customer), and that since purchase of its tape would result in cost savings to the Postal Service the specifications should be changed to allow offers of reconditioned tape.

In his report to this office, the contracting officer describes the requirement for new computer tape as valid, stating that the computer tapes are used on different types of equipment by different postal customers, that the tapes are frequently read more than once, and that only the use of new tape enables the Postal Service to guarantee uniformity, consistency, and quality control. The record also includes a memorandum from the requiring activity (Address Information Systems Branch, San Mateo Postal Data Center) describing in detail how the recorded address file tapes are used by postal customers, and the steps which must be taken if one of the tapes fails at the customer's site.<sup>2/</sup> In addition to the replacement cost to the Postal Service, the time

<sup>1/</sup>Postal Contracting Manual (PCM) 2-407.8 d. (1) provides that "protests based upon alleged deficiencies in a solicitation which are apparent before the date set for the receipt of offers must be received by the date and time set for the receipt of offers". The solicitation was issued September 11, 1987, by the Western Service Center, San Bruno, CA; amendment A01 extended bid opening to 3:00 p.m. on October 13. The protest was received by the contracting officer at 11:25 a.m. on October 13, and is timely under our regulations.

<sup>2/</sup> Some of the largest USPS address files require as many as 77 tapes, and the entire set of tapes is replaced if one tape fails. Even a 1% failure rate would result in considerable expense for the Postal Service; the current failure rate with new tapes is less than .3%.

necessary for replacement tapes to arrive can result in lost discounts for the postal customer.

Three other offerors submitted comments on Magnetic's protest. Computer Resources, Inc., states that no broker in used computer tape can offer a warranty of the tape's performance. Westbay Micro Systems asserts that reconditioning does not yield an article of the same quality as a first run product, since both the tape reel hub and the tape itself degenerate through use. Wabash DataTech, Inc., states that the reconditioning process consists only of cleaning and testing, which eradicate all traces of raw materials and manufacturing processes so that the cause of any subsequent failure cannot be traced, but which do nothing to affect the durability of the tape's magnetic oxide coating. Wabash also claims that adequate operation by reconditioned tape during the certification process may be its last acceptable performance.

Our regulations provide that specifications shall state only the actual minimum needs of the Postal Service. Postal Contracting Manual (PCM) 1-1101. The determination of these minimum needs and the methods of accommodating them, and the technical judgments upon which the determinations are based, are primarily the responsibility of postal contracting officials. Safety First Systems, Ltd., et al., P.S. Protest No. 87-88, October 19, 1987; T.J. O'Brien Company, Inc., et al., P.S. Protest No. 87-83, September 17, 1987; S.H. Demarest, P.S. Protest No. 84-1, February 9, 1984; Doehler-Jarvis Division of N.L. Industries, P.S. Protest No. 77-19, July 22, 1977. Contracting officials have considerable flexibility in determining what specifications are within the minimum needs of the agency. Ruud Lighting, Inc., P.S. Protest No. 85-19, June 12, 1985. We will not disturb such a determination unless it is clearly shown to be without a reasonable basis. Safety First Systems, Ltd., et al., *supra*; Portion-Pac Chemical Corp., P.S. Protest No. 84-49, August 1, 1984; S.H. Demarest, *supra*.

In this case, Magnetic has not shown the requirement for new tape to be unreasonable. Its objection to the requirement is based solely on the assertion that purchase of reconditioned tape would result in cost savings to the Postal Service. This argument is unavailing.

We note that under certain circumstances postal contracting officials are permitted to purchase used or reconditioned products.<sup>1/</sup> However, in this case the contracting officer determined that the Postal Service's minimum needs could only be met by new computer tape. The requirement is reasonable in light of the potential cost to the

<sup>3/</sup>PCM 1-1107 provides in pertinent part as follows:

- a. Generally, all supplies or components thereof ... purchased by the Postal Service shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety). However, the needs of the Postal Service may sometimes be met ... through the purchase of items which are not new....
- b. ... In determining whether such supplies and components may be purchased, the following criteria shall be considered: ... (3) Performance requirements;....

Postal Service (financial loss and customer dissatisfaction) which would accompany a higher tape failure rate. The protester has not met its burden of showing the requirement for new tape to be clearly unreasonable. Safety First Systems, Ltd., et al., supra; Illinois Bell Telephone Company, Comp. Gen. Dec. B-202238, October 20, 1981, 81-2 CPD &320.

The protest is denied.

William J. Jones  
Associate General Counsel  
Office of Contracts and Property Law

**[checked against original JLS 3/15/93]**