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PROCUREMENT APPEAL
IN THE OFFICE OF PUBLIC ACCOUNTABILITY

In the Appeal of TOWN HOUSE DEPARTMENT STORES, INC., dba ISLAND BUSINESS SYSTEMS & SUPPLIES, APPELLANT	COMMENT ON AGENCY REPORT DOCKET NO. OPA-PA-11-007

By the instant IFB, GSA seeks to procure a multi-function copier that can satisfy an anticipated need of 10,000 prints per month black and white, and 2,000 per month color. By the accepted commercial standards of the multi-function copier industry, that is a low volume requirement, yet the IFB seeks to require high volume production run ppm speeds to satisfy the low volume need.

According to independent industry data collector Buyers Lab, a black and white monthly requirement of 9,000 prints would require a production-run print speed of 21-30 ppm; for the color requirement of 2,000 prints per month it would be 11-20 ppm.

But, GSA's low volume needs are required, by the specifications, to be met by a machine having a *minimum* ppm of 85 for black and white and 70 for color. The commercial standard volume requirements for machines with that ppm requirement are, for black and white, 82,000 to 135,000 prints per month; for color, 36,500 prints per month. That is high volume production, far, far in excess of the volume requirements of the IFB.

This is analogous to soliciting a school bus that can do zero to sixty in under five seconds.

GSA considers it trifling ("shallow and largely irrelevant") that IBSS protests the specified device as "overkill, uneconomical". Nevertheless, it is the procurement law and regulation that requires the government to be vigilant against overkill and uneconomical devices.

As to "overkill", the law requires that specifications "shall include only the essential physical

characteristics and functions required to meet the Territory's minimum[1] needs". (5 GCA § 5268(a).) It is the precise intent of that provision to prevent overkill, to avoid expenditure on bells and whistles and whimsy.

As to "uneconomical", a fundamental policy of the procurement law is "to provide increased economy in territorial activities and to maximize to the fullest extent practicable the purchasing value of public funds of the Territory". (5 GCA § 5001(b)(5).) This policy is implemented by law (5 GCA § 5265) and regulation (2 GAR §§ 4102(a)(1) and 4106).

GSA hopes to cloud the volumes it anticipates in the IFB with statements about how many clients it has. That is entirely a red herring. The salient feature here is that GSA only has a need for 12,000 prints a month. It could have 80 or 800 or 8,000 or 80,000 clients, but it has identified its print requirements as being approximately 12,000 prints per month. With 8,000 clients, its need is to print, on average, only 1.5 pages per client per month.

GSA also fixates arbitrarily on the production run speed parameter, which, as noted, far exceeds the accepted commercial standards. Mr. Charles H. Morris' Declaration is submitted with the Agency Report. In it he notes there is a "continuously high work demand" in the WIC office.

That is inconsistent with the actual monthly print requirement specified in the IFB. If prints were "continuously" made in one production run, the entire monthly work effort of the office would be completed in one morning's work, and there would be nothing left to do for the rest of the month.

But, the "continuously high work demand" is actually *continuous* only in the sense that it occurs regularly and continuously at various times throughout the day, throughout the week, throughout the month, and implies; and, when a print is needed, it is needed expeditiously. With that kind of usage it is not the continuous run speed measured by ppm that is critical to getting "output efficiencies" as noted in the Agency Report, but first-copy-out times ("FCOT").

FCOT is measured from a "warm" machine. The likely Xerox machine [2] has a FCOT speed of 8.1 seconds, while IBSS' machine that meets accepted commercial standards for the volumes required has a FCOT speed of 5.5 seconds. Assuming the need to print the average 1.5 pages for a WIC client, a lower FCOT speed compensates for a higher ppm speed. At 85 ppm, 1.5 pages can be printed in about one second, but it will still take 8.1 seconds to get the FCOT out. At 35 ppm, it

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[1] By requiring a "minimum" speed of 85 ppm, GSA necessarily asserts that the minimum acceptable production run speed is 85 ppm for *every* use of the machine; since that print speed is applicable primarily for high volume output only, such an assertion is fanciful, arbitrary and an exaggeration of the actual minimum needs of the agency.

[2] "Likely" because GSA has already tipped its hand, both as to the machine expected to be bid but, also, as to the *admission that the specifications were in fact written to favor incumbent Xerox machines* found in other GovGuam agencies. In its Agency Report, GSA says "**[i]n fact the device to be procured ... has already been procured by at least 3 GovGuam Agencies**".

will take about 2.5 seconds to print the client's 1.5 pages, but the FCOT is still 2 seconds faster than the Xerox machine. (See Attachments hereto.)

If the requirement is to be able to print average client needs throughout the day rather than in one large monthly print run, it is misleading to couch "output efficiencies", that is, actual print specifications, by ppm criteria. This obvious point becomes even more exaggerated when dealing with printing from a machine in "stand-by" mode. Almost all electrical appliances, and certainly the machines competing for this IFB, have energy efficient "sleep" or "stand-by" modes, where, after a short time of no usage, they power down.

Recovery from this power down mode drastically changes the "output efficiency" of the machine. For the IBSS machine, the warm-up time from a power down, or power off, mode is 38 seconds. For the likely Xerox machine, the warm-up time from low power is 47 seconds and, from sleep mode, is 210 seconds.

Focus on ppm speed without consideration of the actual "output" speeds associated with FCOT prints and printing from energy-savings modes is arbitrary and benefits machines, such as Xerox', which have low-volume product lines with expensively high ppm rates, but is anti-competitive for machines with commercial standard ppm speeds and more efficient actual output times.

Focus on a specification for expensively high ppm speeds and disregard of offsetting output efficiencies from competing commercial products violates procurement policy. "The purpose of a specification is to serve as a basis for obtaining a supply, service, or construction item adequate and suitable for the territory's needs in a cost effective manner, **taking into account, to the extent practicable, the costs of ownership and operation as well as initial acquisition costs. It is the policy of the territory that specifications permit maximum practicable competition consistent with this purpose.**" (2 GAR § 4102(a)(1).)

This dispute over specifications is not simply a matter of competition, but also a matter of fiscal prudence mandated both by policy and purpose in law (5 GCA § 5001(b)(5)) and regulation (§ 4102(a)(1), *supra*). The over-spec machine comes at a cost greatly in excess of a machine that complies with the accepted commercial standards, perhaps 150% of the initial acquisition cost according to Buyers Lab analysis.

GSA's Agency Report tries to toss that consideration aside, saying the "high performance specifications of the machine sought will enable output efficiencies leading to overall economies ... which miniaturize its lease price." That is a highly dubious and totally unsupported assertion, flying in the face of the "output efficiencies" to be obtained by consideration of other output factors (FCOT and start up times), discussed above, which offset and compensate for high ppm.

DPHSS may, and likely does, have need to "print nutrition education materials for our clients" and "accommodate our faxing, and scanning requirements for all WIC administrative staff, and to network "with this photocopier through computers to accommodate individual printing functions", and to "print our own nutrition education materials", all as averred by Mr. Morris. IBSS does not

doubt or take issue with any of that.

IBSS takes issue, however, with the overkill, the uneconomical and the arbitrary and commercially non-standard production run print speeds required of this machine given the stated needs of DPHSS in the IFB that its volume requirements are only 10,000 and 2,000 prints per month for monochrome and color, respectively.

GSA complains that IBSS is "second-guessing the Purchasing Agency's decision" to buy this machine. IBSS does nothing of the sort. It is the peculiar ppm requirement, not the machine. IBSS merely points out that the law and regulations restrict purchasing discretion so that agencies do not go out and buy a school bus that can do zero to sixty in under five seconds. IBSS objects to unlawful misuse of agency discretion, not lawful use of it.

GSA misrepresents the law relevant to commercial standards. It says the Xerox machines are "commercially produced", as if that were all the law required. It is not. The policy of the law is to purchase commercially produced products, that is true (2 GAR § 4102(a)(3)), but in drafting the specifications for such products, "accepted *commercial standards* shall be used and unique requirements shall be avoided, to the extent practicable." (*Id.*)

Whether the product is commercially produced or not is not relevant here; it is the fact the specifications do not meet the commercial standards that IBSS protests.

That and the disclosure the specifications were written to favor a particular machine already found in 3 other GovGuam agencies. That and the fact that the "output efficiencies" claimed by GSA are arbitrarily described by only one of the several relevant output factors. That and the fact that the IFB itself specifies volume requirements that simply belie the need for production ppm speeds as specified.

GSA asserts "that it is the buyer who decides" the essential physical characteristics and functions". Yes, but in accordance with the policies, purposes and legal requirements of the law, and only within the limits of discretion the law and regulation impose on the buyer's fancy.

The specifications in this IFB fail critical legal requirements, as alleged by Appellant in its Notice of Appeal. The Public Auditor must take account of those requirements when the government choses to turn a blind eye. Lest we end up with school buses that can do zero to sixty in under five seconds.

Respectfully submitted,

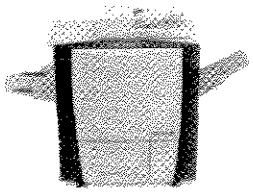
John Thos. Brown
General Counsel for Appellant

ATTACHMENT TO
OPA-PA-11-007, IBSS & GSA, *Appellant Comments on Agency Report*

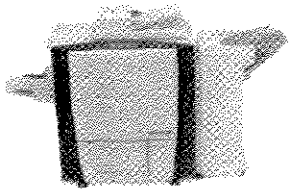
Pertinent Product Specifications for

Xerox 9201/9202/9203 printer
Canon C5051/C5045 and C5035/C5030 printer

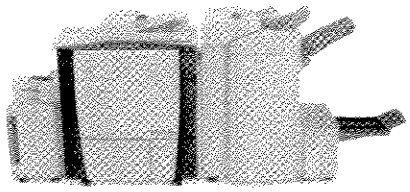
Xerox ColorQube™ 9201/9202/9203 Multifunction Printer



Xerox ColorQube 9201
shown with Offset Catch Tray.



Xerox ColorQube 9202
shown with Office Finisher.



Xerox ColorQube 9203
shown with High Volume Finisher with Booklet Maker, Post Process Inserter, Z-Fold/C-Fold unit and High Capacity Feeder.

	Xerox ColorQube 9201	Xerox ColorQube 9202	Xerox ColorQube 9203
Output Speed – Printing and Copying			
Color	High Resolution/Photo Mode: 30 ppm Enhanced Mode (Default): 38 ppm Standard Mode*: 50 ppm Fast Color Mode*: 60 ppm	High Resolution/Photo Mode: 35 ppm Enhanced Mode (Default): 45 ppm Standard Mode*: 60 ppm Fast Color Mode*: 70 ppm	High Resolution/Photo Mode: 38 ppm Enhanced Mode (Default): 50 ppm Standard Mode*: 70 ppm Fast Color Mode*: 85 ppm
Black and white	High Resolution/Photo Mode: 38 ppm Enhanced Mode (Default): 50 ppm Standard Mode*: 70 ppm Fast Color Mode*: 85 ppm		
First-Copy-Out Time – Letter Size/A4, from Platen			
	As fast as 8.1 seconds		
Copy Specifications			
Copying			
Document Scanner	Duplex Automatic Document Feeder (DADF) 100-sheet capacity		
Sides (input:output)	1-1, 1-2, 2-2, 2-1		
Quantity	1 to 9,999		
Resolution (max)	600 x 600 dpi		
Concurrency	Unlimited program-ahead consistent with configuration (Copy, Fax and Scan)		
Memory	1 GB Pre-collation memory, 512 MB, 80 GB Disk minimum		

* Standard and Fast Color speeds are available for printing in PostScript only. Copy settings are limited to High Resolution/Photo and Enhanced Mode speeds.

Features	Enable/disable via the web UI or the device GUI in tools; administrator can manage the feature remotely. Data can be exported via a CSV file; supports entering XSA ID into the print driver when submitting a print job. Black-and-White and Color usage can be controlled. Black only usage setting allows Useful color pages to be copied or printed. When Color usage is enabled, both Everyday and Expressive color pages can be copied or printed.		
Accounting Options – Job Based Accounting – Third Party Enablement			
	Enhanced network accounting with up to the minute data on how the ColorQube system is being used; comprehensive management and enterprise scale tracking and reporting of device usage of copy, print, scan and server fax. Various options available through Xerox Alliance Partner solutions. For details visit www.xerox.com Security enhancements with the addition of HTTPS protocol support ColorQube requests account authentication from third party server enabling larger databases of users and accounts		
Machine Specifications			
Monthly Duty Cycle			
	ColorQube 9201: up to 150,000 pages/month **ColorQube 9202:** 225,000 pages/month **ColorQube 9203:** 300,000 pages/month		
Average Monthly Print Volumes			
	15,000 – 75,000 pages		
Electrical Requirements			
North America	Voltage : 110 –127 VAC +/- 6 % (99-135 VAC) Frequency: 60 Hz +/- 5 %, 15 A		
Europe	Voltage : 220-240 VAC +/- 6 % (198-254 VAC) Frequency: 50 Hz +/- 6 %, 10 A		
Power Consumption (Base IOT)			
Running (Max)	1410 watts		
Running (Average)	750 watts		
Standby Mode	360 watts		
Low Power Mode	200 watts		
Sleep Mode	113 watts		
Warm-up (Ready to Mark)	From Low Power: 47 sec. From Sleep: 3 min 30 sec.		
	The Intelligent Ready power management feature learns the unique print usage patterns of an office so the device will be in ready mode when needed and automatically go into lower power modes when not needed. This feature maximizes energy efficiency and results in pages being generated in as fast as 8 seconds		
Sound Levels			
Base IOT	**Run Continuous**	**Impulse**	**Standby**
Sound Power Level	7.3 B(A)	7.8 B(A)	5.5 B(A)
Sound Pressure Level	58 dB(A)	63 dB(A)	40 dB(A)

Product Specifications

imageRUNNER ADVANCE
C5051 / C5045
C5035 / C5030

Main Unit

Operation Panel
8.4" SVGA Full-Color TFT Screen

Memory
Standard: 2GB RAM
Maximum: 2.5GB RAM

Hard Disk Drive
Standard: 80GB
Maximum: 250GB

Network Interface Connection
Standard: 10/100/1000Base-TX
Optional: Wireless LAN (IEEE 802.1x)

Other Interface
Standard: USB 2.0 (Host)x2, USB 2.0 (Device)
Optional: Device Port (USB 2.0 (Host) x2), Serial Interface, Copy Control Interface

Copy/Print Speed (BW/Color)
Letter:
C5051: Up to 51/51 ppm
C5045: Up to 45/45 ppm
C5035: Up to 35/35 ppm
C5030: Up to 30/30 ppm

First-Copy-Out Time (Letter)
C5051/C5045: BW: 4.0 Seconds; Color: 6.5 Seconds
C5035/C5030: BW: 5.5 Seconds; Color: 8.9 Seconds

Paper Sources (20 lb. Bond)
Standard: Dual 550-sheet Paper Cassettes, 100-sheet Stack Bypass
Maximum: 5,000 Sheets

Output Paper Capacity (20 lb. Bond)
Standard: 250 Sheets (Inner Tray)
Maximum: 3,250 Sheets (with Staple Finisher or Booklet Finisher)

Output Paper Sizes
Cassettes: 12"x18",* 11"x17",* Legal, Letter, Letter-R, Statement-R, Executive, Custom Size (5-1/2" x 7-1/8" to 12" x 18")
Bypass: 12"x18", 11"x17", Legal, Letter, Letter-R, Statement, Statement-R, Executive, Custom Size (3-7/8" x 5-1/2" to 12-5/8" x 18")

Acceptable Paper Weights
Cassettes: 14 lb. Bond to 110 lb. Index (52 to 209g/m²)
Bypass: 14 lb. Bond to 140 lb. Index (52 to 256g/m²)

Warm-up Time
28 Seconds from Power On

Power Requirements/Plug
C5051/C5045: 120V AC, 60Hz, 20A/NEMA 5-20P
C5035/C5030: 120V AC, 60Hz, 15A/NEMA 5-15P

Dimensions (H x W x D)
C5051/C5045: 38-5/8" x 24-3/8" x 29-7/8" (982mm x 620mm x 760mm)
C5035/C5030: 37" x 24-3/8" x 29" (938mm x 620mm x 735mm)

Installation Space (W x D)
C5051/C5045: 42-1/8" x 52" (1071mm x 1319mm)
C5035/C5030: 42-1/8" x 49-5/8" (1071mm x 1259mm)
(When Stack Bypass is extended)

Weight
C5051/C5045: Approx. 379 lb.**
C5035/C5030: Approx. 342 lb.**

Toner (Estimated Yield @ 5% Coverage)
C5051/C5045
Black: 44,000 Images
Color (C,M,Y): 38,000 Images
C5035/C5030
Black: 36,000 Images
Color (C,M,Y): 27,000 Images

Image Reader Unit

Scan Resolution
Up to 600 x 600 dpi

Acceptable Originals
Sheet, Book, 3-Dimensional objects (up to 4.4 lb. (2kg))

Maximum Original Size
Up to 11" x 17"

Document Feeder

Scan Method (Standard)
C5051/C5045
Single-Pass Duplexing Automatic Document Feeder
C5035/C5030
Duplex Automatic Document Feeder

Acceptable Originals
Paper Size: 11" x 17", Legal, Letter, Letter-R, Statement, or Statement-R

Scan Speed (BW/Color; Letter)
C5051/C5045
Simplex: 70/70 ipm (300 dpi)/ 70/51 ipm (600 dpi)
Duplex: 100/100 ipm (300 dpi)/ 70/51 ipm (600 dpi)
C5035/C5030
Simplex: 46/46 ipm (300 dpi)/ 46/46 ipm (600 dpi)
Duplex: 17.5/17.5 ipm (300 dpi)/ 17.5/17.5 ipm (600 dpi)

Paper Capacity (20 lb. Bond)
C5051/C5045: 150 Sheets
C5035/C5030: 100 Sheets

Print Specifications

Engine Resolution
1200 x 1200 dpi

PDL Support
Standard: UFR II
Optional: PCL 5c, PCL 6, Adobe PS 3

Print Driver Supported OS
UFR II, Adobe PS 3: Windows* (Windows 2000/ XP/Server 2003/Server 2008/ Windows Vista*/Windows 7), Citrix MetaFrame, Macintosh* (OS X 10.2.8 or later)
PCL 5c/6: Windows (Windows 2000/ XP/Server 2003/Server 2008/ Windows Vista/Windows 7), Citrix MetaFrame
XPS: Windows Vista, Windows Server 2008, Windows 7

Direct Print Support
Standard: TIFF, JPEG, EPS***
Optional: PDF, XPS***

Universal Send Specifications

Sending Method
E-Mail, I-Fax, File Server (FTP, SMB, WebDAV), User Inbox, Super G3 Fax (Opt.)

Communication Protocol
File: FTP (TCP/IP), SMB (TCP/IP), NCP (IPX), WebDAV
E-mail/I-Fax: SMTP, POP3, I-FAX (Simple, Full)

File Format
Standard: TIFF, JPEG, PDF, PDF (Compact), PDF (Apply Policy), PDF (Optimize for Web), PDF/A-1b, XPS, XPS (Compact)
Optional: PDF (Trace & Smooth), PDF/ XPS (OCR), PDF (Encrypted), PDF/XPS (Digital Signature), PDF (Reader Extensions), Office Open XML (OCR)

Fax Specifications

Maximum Number of Connection Lines
4

Modem Speed
Super G3: 33.6 Kbps
G3: 14.4 Kbps

Compression Method
MH, MR, MMR, JBIG

Sending/Recording Size
Statement to 11" x 17"

Store Specifications

Mail Box (Number Supported)
100 User Inboxes, 1 Memory RX Inbox, 50 Confidential Fax Inboxes

Advanced Box
Available Disk Space: Approx. 10GB (Standard HDD), 115GB (250GB HDD)
Communication Protocol: SMB or WebDAV
Supported Client PC: Windows (Windows 2000/XP/ Windows Vista)

Memory Media
Standard: USB Memory
Optional: SD, SDHC, CompactFlash, Memory Stick, Microdrive

Security Specifications

Standard
Department ID Management, Single Sign-On-H, Access Management System (Device and Function Level Log-in), Secured Print, Trusted Platform Module, User Access Control of Advanced Box, Mail Box Password Protection, IPv6, Restricting Features (Restricting the Send Function, Restricting New Addresses on Address Book), SSL Encrypted Communication, SNMPv1/v3, MAC/IP Address Filtering, SMTP Authentication, POP Authentication before SMTP, HDD Format, Adobe LiveCycle Rights Management ES2 Integration

Other Optional Accessories

- Utility Tray-A1
- USB Keyboard
- Key Switch Unit-A2
- Card Reader-C1
- imageRUNNER ADVANCE Essentials
- Universal Send Advanced Feature Set-D1
- Super G3 Fax Board-AE1
- Super G3 2nd Line Fax Board-AE1
- Super G3 3rd/4th Line Fax Board-AE1
- Remote Fax Kit-A1
- Barcode Printing Kit-D1
- Web Access Software-H1
- Wireless LAN Board-B1
- USB Device Port-B1
- Multimedia Reader/ Writer-A1
- Additional Memory Type B (512MB)
- 2.5-inch/80GB HDD-C1
- 2.5-inch/250GB HDD-D1
- Serial Interface Kit-K1
- Copy Control Interface Kit-A1
- eCopy Suite
- imageWARE Suite

* Not available on top cassette
** Includes consumables.
*** EPS and XPS cannot be printed directly from Memory Media or Advanced Box.

NOTE: Some accessories require additional equipment or may be prerequisites for other options. Some accessories cannot be installed simultaneously. Check with your Authorized Canon Dealer for details.

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