



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: G. H. Harlow Company, Inc.

File: B-266049

Date: January 26, 1996

Paul J. Holma, Esq., Bradach Law Offices, for the protester.

Nicholas P. Retson, Esq., and Michael J. O'Farrell, Jr., Esq., Department of the Army, for the agency.

Christina Sklarew, Esq., John Van Schaik, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that salient characteristic for a fire-detection system solicited on a brand name or equal basis is unduly restrictive of competition is denied where the contracting agency reasonably determined that the requirement is a necessary safety feature.

DECISION

G. H. Harlow Company, Inc. protests that certain specifications included in invitation for bids (IFB) No. DAHA30-95-B-0006, issued by the Departments of the Army and the Air Force, National Guard Bureau, for a fire-detection system, are unduly restrictive of competition. In particular, Harlow challenges the method specified for manually checking the integrity of the system's remote transceivers.

We deny the protest.

The IFB seeks bids for construction of a base-wide fire-detection system for the Air National Guard Base in Westhampton Beach, New York, including a supplementary water supply connection and fire alarm detection systems in various buildings. The portion of the solicitation at issue here involves the installation of a radio-type fire reporting system. The IFB, as amended, requires the contractor to supply and install Monaco Enterprises, Inc.'s model D-700 or equal. The IFB describes the salient characteristics of the brand-name system and lists the installation and operational standards that must be met.

The type of fire-detection system being procured consists of a central base station and numerous transceivers located throughout the installation. In the event of a fire, the transceivers transmit signals to the base station; based on those signals, the system operator in the central base station is able to identify the location of the fire. Systems of this type include a means of verifying that the remote transceivers

are functioning properly. In this case, the IFB specifies that radio transceivers in the various remote locations must respond to test interrogations from the central base station, indicating the operational status of the transceiver. Thus, if the transceiver is operating abnormally in any way, for example because of a power failure, a low battery, or tampering, the abnormal condition would automatically be reported in a display at the central base station when the test interrogation is initiated. The IFB specifies that remote radio transceivers include a radio receiver and transmitter to allow an interrogation/reply technique in which the transceivers are interrogated at regular intervals automatically, and that the system also be capable of being tested manually from the central base station radio equipment with replies returned by the remote transceivers indicating transceiver status.

Harlow argues this "two-way" system, which Harlow complains is unique to Monaco's equipment, is not the only means available to manually test transceiver integrity, and that the specified system exceeds the agency's actual needs. Harlow points out that either system permits manual operation, and argues that since the only difference between a one-way and a two-way system when operated manually is the location from which the test signal is initiated, the two-way system does not provide any higher level of safety or service. The protester contends that reliance on a manual test signal initiated from the remote transmitters as opposed to from the base receiver is allowed by the standards of the National Fire Protection Association, which is cited in the IFB as applicable.

In response, the agency states that it has determined that its protection and safety needs dictate a system that permits manually initiating test procedures to verify system integrity and operation from the base station. According to the agency, therefore, a one-way system, which requires the remote transceivers to initiate the test signal, does not meet its minimum needs.

Contracting agencies have broad discretion in identifying their needs and determining what characteristics will satisfy those needs. Bombardier, Inc., Canadair, Challenger Div., B-243977; B-244560, Aug. 30, 1991, 91-2 CPD ¶ 224. The fact that specifications are based upon a particular product is not improper in and of itself; nor will an assertion that a specification was "written around" design features of a particular product provide a valid basis for protest if the record establishes that the specification is reasonably related to the agency's minimum needs. Hewlett-Packard Co., 69 Comp. Gen. 750 (1990), 90-2 CPD ¶ 258. When a protester challenges a salient characteristic included in a brand name or equal solicitation as unduly restrictive of competition, we will review the record to determine whether the restrictions imposed are reasonably related to the contracting agency's minimum needs. Herley Indus., Inc., B-246326, Feb. 28, 1992, 92-1 CPD ¶ 243.

We think the agency reasonably could conclude that a greater degree of control and safety would exist when the central system is capable of initiating a manual test, compared to the one-way system Harlow describes. Moreover, with respect to solicitation provisions relating to human safety or national defense, we have held that an agency has the discretion to set its minimum needs so as to achieve not just reasonable results, but the highest possible reliability and effectiveness. LIPS Propellers, Inc., B-256713, July 15, 1994, 94-2 CPD ¶ 26. In this case, we see no basis to object to the agency's determination that because a two-way system allows the base station to initiate a test independently and receive confirmation of proper operating conditions without reliance on the actions of each remote location, the two-way system provides the degree of protection necessary to meet the agency's safety requirements. In our view, the agency has provided a reasonable basis to support its determination of its minimum needs. See Herley Industries, Inc., supra.¹

The protest is denied.

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¹Because we have determined that the one salient characteristic being challenged--the two-way fire detection system--was legally unobjectionable, and because Harlow acknowledges that it could not meet this requirement, we need not discuss the protester's general objection to the use of a brand name or equal specification. Since Harlow is ineligible for award, it is not an interested party to protest the brand name or equal specification. See 4 C.F.R. § 21.0(a) (1995) ; Mar-Mac Precision Corp., B-221561, Jan. 22, 1986, 86-1 CPD ¶ 72.