DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-209884 DATE: August 24, 1983

MATTER OF: Hill Industries, Inc.

DIGEST:

An agency's concern about where, when, why and how items became Government surplus is not in itself sufficient to preclude the procurement of parts from surplus dealers. A decision not to accept offers of surplus parts is not objectionable, however, where the agency considers the items critical, and there is no historical data on the items from the time they left the manufacturer so that simple visual inspection of the item would insure acceptable quality.

Hill Industries, Inc. protests the award of a contract to SKF Industries, Inc. under request for proposals (RFP) No. F34601-82-R-43329 issued by the Department of the Air Force for 2,308 roller bearings to be used in the starter assembly of jet aircraft. The Air Force rejected Hill's offer of $71.73 per item because Hill offered surplus items which the Air Force found to be unacceptable. The contract price is $93.75 per item.

We deny the protest.

The Air Force published notice in the Commerce Business Daily that it had issued a solicitation for the roller bearings to SKF. Hill states that it contacted the contracting activity and was advised that if it was interested in the contract it could submit an offer in letter form. The firm did so, offering to supply parts manufactured by SKF and previously furnished to the Government by a firm whose assets Hill had acquired. (The Air Force received one other offer of surplus material.) Hill also furnished six contract numbers under which the bearings were purchased "from" the Government, which ranged from June 1964 through December 1969.

The Air Force then undertook to judge whether surplus parts would be acceptable. In this respect, while the RFP

issued to SKF on a sole-source basis called for furnishing new manufactured equipment which was not used or reconditioned, and not so old or deteriorated as to impair its usefulness or safety, the solicitation did include a standard provision for consideration of offers of surplus parts. The solicitation required that a firm intending to offer Government surplus property so advise the procuring office at least 10 days before proposals are due. The provision cautioned that the Government would determine, on a case-by-case basis, whether or not surplus parts would be considered in view of the criticality of the parts, and the impossibility of applying normal inspection and quality assurance procedures. If surplus parts were found to be acceptable, the provision advised, the solicitation would be amended to incorporate inspection standards adequate to insure that the surplus parts conformed to the specifications. Finally, the RFP incorporated by reference the clause at Defense Acquisition Regulation § 7-104.49 (1976 ed.), which states that an offeror of former Government surplus property must include with the offer a complete description of the items, the quantity to be used, the Government source, and the date of acquisition.

The Air Force rejected Hill's offer even though Hill certified that the roller bearings were new and unused and that the surplus items had been previously manufactured for the Government by SKF. Basically, the Air Force considered the part to be critical, requiring the "most reliable components," in that the bearings are "applied to an engine starter turbine whose catastrophic failure (which failure of the bearing would cause) could well result in aircraft damage or loss and personnel injury." The Air Force determined that there was no adequate method for the Government to inspect the surplus parts to insure safe, reliable operation; the agency states that it is not enough to inspect the roller bearings for rust and corrosion by simple visual examination, because there are no records concerning the production contracts to insure that the quality control requirements that had been imposed on the manufacturer were met.

According to the Air Force, purchase of surplus bearings would require the Government to establish special inspection criteria "to replace the in-process manufacturing inspection required during production," but the close tolerance inspection necessary to guarantee bearing usefulness is neither available nor practicable in part because

the manufacturer recommends that the bearings not be disassembled. The alternative, the Air Force asserts, is to waive contract quality assurance requirements for the items, which the agency argues is unacceptable. In this respect, the Air Force states that similar bearings were purchased in 1979 from surplus dealers which resulted in a rejection rate, after visual examination, of 60 percent due to corrosion. The Air Force also notes that the surplus parts offered by Hill are from 12 to 18 years old, which the agency believes exceeds applicable limitations for lubricant/packaging for the item.

In response, Hill states that it stands ready to have the bearings completely inspected for corrosion and tolerances by a private inspection firm at its own expense. Hill cites a letter from the inspection firm which states that the bearings can be disassembled, tested and reassembled without damaging "critical bearing surfaces." Hill asserts that the bearings in fact were inspected and accepted under a production contract when they were initially purchased by the Air Force, and that a visual inspection for corrosion would disclose any deterioration of the surfaces of the bearings. Hill contends that the bearings it intends to furnish are in the manufacturer's original, unopened packages with the manufacturer's identification, and that Hill will furnish the complete procurement history of the bearings if requested to do so by the Air Force. In this respect, it appears that the 1964-1969 contracts under which, according to Hill, the bearings were purchased "from" the Government actually were the contracts under which the Government initially bought the roller bearings, and that the bearings were purchased from the Government at surplus sales in 1972 and 1973.

We cannot find the concerns expressed by the Air Force about the feasibility of appropriate inspection procedures applicable to surplus parts, and the agency's reservations about the current condition of such parts, unreasonable. In D. Moody & Co., Inc., 56 Comp. Gen. 1005 (1977), 77-2 CPD 233, we recognized that it indeed is legitimate for an agency to be concerned as to where, when, why and how an item became surplus. We also recognized that such concern, without more, is not sufficient to preclude the procurement of parts from surplus dealers; for example, if the historical data on a new, unused, non-deteriorative item from the time it left the manufacturer's plant has been supplied, there may well be no distinction between the part furnished

by the manufacturer and the part furnished by a surplus dealer. In that case, one could assume that since the surplus parts had once been accepted by the Government, they passed all the inspection procedures required of new parts before initial acceptance. See also D. Moody & Co., Inc., B-199880, June 2, 1981, 81-1 CPD 456.

Here, Hill is offering to furnish 12 to 18 year old bearings that the firm argues need only be inspected visually. While visual inspection of offered surplus parts may well be adequate where the Government already is assured that the items were subjected to the necessary quality control when manufactured, as the Air Force appears to concede, we cannot find unreasonable the Air Force's concern with the absence of any historical data on the items offered by Hill. In this respect, the Air Force advises that the records pertaining to the contracts under which Hill alleges the Government bought the bearings cannot be located, probably because they were disposed of pursuant to standard record-keeping procedures. Finally, although Hill has offered to furnish complete historical data if requested by the Air Force, the issue of the availability of such data is clearly drawn by the protester's submissions and the Air Force's response, yet the protester, with the burden to prove its case, see Pioneer Industrial Products, B-209131, March 22, 1983, 83-1 CPD 286, never actually has come forward with the necessary information.

As to the practicability of disassembling the bearings for inspection, the Air Force has furnished considerable argument and evidence that such an effort is inadvisable. The evidence includes advice from the manufacturer, Air Force technical people, and even a notation on the manufacturer's source control drawing itself that the bearing is of "non-separable" construction. Neither Hill's disagreement with the agency's opinion, nor the statement by an inspection firm Hill would pay that it could disassemble and reassemble the bearings without damaging critical surfaces, invalidates the Air Force's judgment. See The Management and Technical Services Company, a subsidiary of General Electric Company, B-209513, December 23, 1982, 82-2 CPD 571.

The determination of an agency's minimum needs and how they must be met, and the technical decisions that go into those judgments, necessarily are primarily the responsibility of the procuring agency. Interstate Court Reporters, B-208881.2, February 9, 1983, 83-1 CPD 145. We therefore

will not object to an agency's conclusions in those respects unless the protester shows that the agency has acted unreasonably or arbitrarily. Industrial Acoustics Company, Inc. et al., B-194517, February 19, 1980, 80-1 CPD 139. We cannot conclude, based on the record before us, that the Air Force has acted improperly in this case.

The protest is denied.

Harry R. Van Cleve
for Comptroller General
of the United States