



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: B.H. Aircraft Company, Inc.

File: B-222565; B-222566

Date: August 4, 1986

DIGEST

1. Protester's assertion that it can supply satisfactory aircraft engine parts does not establish that the contracting agency's requirement for engine qualification testing before approval of the protester as a source is unreasonable where the parts are critical to the safe and effective operation of the engine.
2. Protest that contracting agency failed to notify prospective offerors that engine qualification testing was required for a firm to be approved as a source for aircraft engine parts is without merit, since the protester was aware that it would be required to obtain approval as a source for the parts and the agency had not established specific qualification standards at the time it received the protester's proposal.

DECISION

B.H. Aircraft Company, Inc. protests the Department of the Air Force's proposed issuance of one or more purchase orders to the Pratt and Whitney Aircraft Group of United Technologies Corporation for a part of the TF-30 engine manufactured by Pratt and Whitney. B.H. Aircraft submitted unsolicited proposals to supply the part after learning that the Air Force had issued solicitations FD2030-85-R-0590 and FD2030-86-45100 to Pratt and Whitney. The protester offers a lower price for the engine part than Pratt and Whitney, but has been denied approval as a source by the Air Force because its parts have not undergone engine testing.

We deny the protest.

On September 3, 1985, the Oklahoma City Air Logistics Center, Tinker Air Force Base, Oklahoma issued solicitations for 266 combustion chamber outer duct assemblies for TF-30 aircraft engines^{1/} to the only previous

^{1/} The September 3 solicitation, No. FD2030-85-R-0590, was announced in the Commerce Business Daily on September 23, and apparently reissued to Pratt and Whitney on October 9, with a second announcement on the same date.

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manufacturer, Pratt and Whitney. On December 9, the activity issued a solicitation to Pratt and Whitney for an additional 43 assemblies. B.H. Aircraft submitted a proposal to supply duct assemblies based upon Pratt and Whitney specifications and drawings and requested approval as a source of the parts on November 8. The contracting officer sought an expedited approval for B.H. Aircraft because the firm's proposal offered substantial savings.

Until it received B.H. Aircraft's proposal, the Air Force believed that only Pratt and Whitney possessed specifications and drawings necessary to manufacture the duct assemblies. The agency states that no prospective offerors expressed an interest in becoming qualified as a source for the duct assemblies when the items were listed in the Air Force's Advanced Procurement Planning List, which was mailed to more than 500 firms. Consequently, the Air Force had not established qualification standards other than the requirement that any offeror must have previously provided duct assemblies to the Air Force or to the engine manufacturer. The need to establish qualification standards delayed the agency's decision on B.H. Aircraft's application for source approval. When no decision had been reached in late April, the contracting officer undertook negotiations with Pratt and Whitney. B.H. Aircraft's protest followed on May 12.

In the administrative report on the protest, the Air Force states that it has finally determined not to approve B.H. Aircraft as a source because its duct assemblies have not been tested during engine operation. The agency has offered to test the assemblies without charge during a scheduled engine test in late 1987.

The protester argues that it is unreasonable for the Air Force to require engine qualification testing of the duct assemblies. B.H. Aircraft contends that the assemblies are not complex, compared with other engine parts it manufactures, that it has never been required by engine manufacturers to submit parts for engine testing except when the design is new or has been modified, and that dimensional inspection and material analysis are sufficient to establish the acceptability of duct assemblies from firms with the manufacturing experience of B.H. Aircraft. The protester points out that the Commerce Business Daily (CBD) notices for these procurements stated that bids from "all responsible sources" would be considered, with no mention of qualification tests. Based on this fact, B.H. Aircraft questions whether the engine testing requirement was devised to restrict competition after the firm submitted its offer. B.H. Aircraft also expresses its concern that in responding to the protest, the Air Force released its prices to Electro-Methods, Inc., a company that had also proposed to supply the duct assemblies.

Agencies may limit competition for the supply of parts if necessary to assure the "safe, dependable, and effective operation" of military equipment. Department of Defense Supplement to the Federal Acquisition

Regulation (DFARS), 48 C.F.R. § 217.7203(a) (1985). In such cases, the regulation provides that parts should generally be obtained from sources that have satisfactorily manufactured or furnished them in the past unless fully adequate data, test results, and quality assurance procedures are available.

The regulation concludes that:

"The exacting performance requirements of specially designed military equipment may demand that parts be closely controlled and have proven capabilities of precise integration with the system in which they operate, to a degree that precludes the use of even apparently identical parts from new sources, since the functioning of the whole may depend on latent characteristics of each part which are not definitely known."

Properly functioning duct assemblies are critical to the safe and effective operation of the engines, and the Air Force believes that unanticipated changes in assembly dimensions resulting from B.H. Aircraft's manufacturing methods might ultimately result in accelerated or abnormal deterioration of engine components.

The Air Force report includes the following explanation for its concerns:

"This duct assembly, in conjunction with the combustion chamber inner duct, forms a converging nozzle which directs combustion gases from the combustion chambers into the inlet of the turbine section. The assembly is a fabricated weldment made up of 26 details (excluding rivets and bolts). The assembly has in excess of 840 holes/slots through which air is directed to maintain proper cooling and pressure balance. Unique fixturing, currently possessed by Pratt and Whitney Aircraft, is the only tooling which has been proven to adequately hold, position, and size the various components during welding and hold installation operations. Changes in fixturing, manufacturing sequence, or processing of complex sheet metal weldments could cause the assembly to respond differently when exposed to the high thermal and pressure gradients in service."

Since these problems would only become evident during engine operation, the agency is unwilling to accept parts based exclusively on inspection of the unused parts themselves.

The protester asserts that the changes in fixturing, manufacturing sequence, or processing about which the Air Force is concerned

"have little bearing on final acceptance of parts, since no two manufacturing facilities will process parts in exactly the same fashion. Assuming that the Air Force has been procuring

assemblies that comply to the dimensional specifications of the drawings, as we propose to supply, performance features will remain inherently the same."

The protester concludes that engine testing should be a prerequisite only when the Air Force seeks to establish the credibility of an initial design concept or to assess modifications in material or dimensions.

The protester's assertions that it can provide satisfactory duct assemblies without engine testing do not establish the unreasonableness of the Air Force technical determination that the part must be tested in the engine for which it is made. See Pacific Sky Supply, Inc., 64 Comp. Gen. 194 (1985), 85-1 CPD ¶ 53; Electro-Methods, Inc., B-215841, Mar. 11, 1985, 85-1 CPD ¶ 293. Even B.H. Aircraft, as indicated above, acknowledges that no two manufacturers will process the same part in exactly the same way. The protester's statement that it is not uncommon for engine manufacturers themselves to subcontract for parts without requiring engine qualification testing is not established by evidence in the record. Even if it is true, as B.H. Aircraft contends, that parts supplied to engine manufacturers are sometimes tested "on the wing," this fact would not render the Air Force's judgment an abuse of its discretion.

In publicizing the procurement, the Air Force did not notify prospective offerors that source approval would be required. When announcing procurements in the CBD, agencies are required to incorporate any applicable "Numbered Notes." Federal Acquisition Regulation, 48 C.F.R. § 5.207(d) (1985). These notes are listed weekly in the CBD and provide such information as how to respond to the notice and the qualifications that a prospective offeror must have to be considered for an award. Note 33 would have been applicable in this case. It states that all offerors of the parts being procured must (1) have previously produced the parts for the government or the prime equipment manufacturers, or (2) submit complete and current engineering data for the item, including manufacturing control drawings, qualification test reports and quality assurance procedures, as may be required for the agency to determine acceptability of the parts.

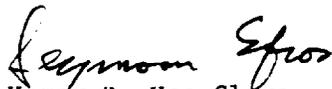
The Air Force has a statutory obligation to advise offerors whether they or their products must meet a qualification requirement. 41 U.S.C. § 416(b) (Supp. II 1984); 15 U.S.C. § 637(f) (Supp. III 1985). While the agency failed to incorporate Note 33 or otherwise notify prospective offerors that source approval would be required, the protester obviously was aware that this was a prerequisite, and was not prejudiced by the Air Force's omission. Furthermore, although B.H. Aircraft apparently would not have submitted the proposal had it known that engine qualification testing would be part of the approval process, there was no engine testing requirement at the time of the CBD announcement. Until the Air Force received B.H. Aircraft's proposal and learned that Pratt and Whitney had provided manufacturing data to another firm, the agency had not

established any qualification standards in addition to its preexisting requirement that offerors must have previously produced the duct assemblies.

Moreover, the record does not support B.H. Aircraft's suspicion that the engine testing requirement was devised to restrict competition. The agency did not finally determine that such a requirement would be necessary until 6 months after submission of the protester's proposal, following discussions with the protester and debate within the Air Force. We have no evidence that this decision was made for any reason other than the one put forward in response to the protest. Thus, we find no basis to object to the Air Force's refusal to accept the protester's proposal or to approve B.H. Aircraft as a source for the duct assemblies at this time.

Finally, B.H. Aircraft complains that the Air Force, in disseminating copies of the administrative report to interested parties as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(c) (1986), disclosed a document containing the protester's prices. In view of our denial of B.H. Aircraft's protest, we do not conclude that the firm was prejudiced by the disclosure. See C&W Equipment Co., B-220459, Mar. 17, 1986, 86-1 CPD ¶ 258, aff'd on reconsideration, June 10, 1986, 86-1 CPD ¶ 539.

We deny the protest.

for 
Harry R. Van Cleve
General Counsel