



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Pem All Fire Extinguisher Corp.

File: B-231478

Date: July 27, 1988

DIGEST

Protest that specification for "wet chemical" fire extinguisher system is unduly restrictive of competition is denied where the agency presents a reasonable explanation in support of the specification as necessary to meet its minimum needs and protester, while disagreeing with agency's analysis, fails to show that the exclusion of "dry chemical" system is clearly unreasonable.

DECISION

Pem All Fire Extinguisher Corporation protests that invitation for bids (IFB) No. F09607-88-BA002, issued by the Air Force for fire extinguisher systems for military housing units, is unduly restrictive of competition because it specifies a "wet chemical" system and thereby excludes any "dry chemical" system from consideration.

We deny the protest.

The Air Force is soliciting bids for fire extinguisher systems to be installed in kitchens in military housing at Moody Air Force Base, Georgia. The record indicates that in 1985 the Air Force installed dry chemical systems called "Firefox" in these housing units. Eighteen months after installation, a fire occurred in one of the kitchens. The fire extinguisher failed to operate, apparently because the dry chemical agent had caked and could not be expelled from its container. The fire department then tested the remaining Firefox extinguishers, all of which similarly failed to operate. The agency states that the failure was caused by the caking of the dry chemicals, and the caking was caused by the practice of storing the system above the stove, where it is repeatedly heated and cooled as the range is used. The agency also states that the powder is not easily accessible and therefore cannot be loosened or

0-42831

stirred to prevent solidification. Although the systems were Underwriters Laboratories tested and were supposed to have a useful life of 6 years, the dry agent solidified within 18 months of installation.

Pem All, which manufactures a dry chemical system, contends that its system is in fact more powerful than a wet system and that competition is unnecessarily restricted by the requirement for a wet system. The protester contends that it is unfair and inaccurate to judge all dry chemical systems on the basis of one that failed. Pem All argues that its own system is Underwriters Laboratories tested and that it has never known of any problems in the operation of any of the systems it has sold over the past 19 years.

When a protester challenges a specification as being unduly restrictive of competition, the burden initially is on the procuring agency to establish prima facie support for its contention that the restriction is needed to meet its minimum needs. Once the agency establishes this prima facie support, the burden shifts to the protester to show that the requirement complained of is clearly unreasonable. Reach All, Inc., B-229772, Mar. 15, 1988, 88-1 CPD ¶ 267.

We have recognized an agency's discretion to specify items with superior performance characteristics allowing for as much reliability, effectiveness and safety as possible in performing the function for which they are designed, especially items critical to human survival. See ITT Electro-Optical Products Division, B-211403, Sept. 2, 1983, 83-2 CPD ¶ 299.

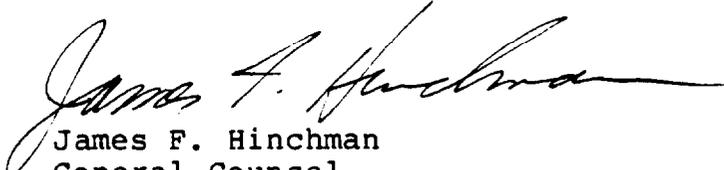
Here, the agency has demonstrated that its decision not to consider dry chemical systems was based on its experience of those systems as unsafe. In addition, the Air Force states that it conducted some research of dry systems other than the Firefox one it had used, which did nothing to dispel the agency's negative experience with these systems. When it contacted two other Air Force bases that had used dry systems, the agency was told that these other systems had also caked up within 18 months of installation. The Air Force also attempted to gain information from five companies that had installed the Pem All system for residential use. Only one reported having discharged any units, and this occurred as a test during installation.

The protester points out that its own product is not a disposable unit, as the Firefox was, and that its own product is placed in a cabinet beside the stove where it would not be exposed to heat, rather than on the range hood, where it would be subject to heat and where the Firefox was located. While this provides some basis to believe that the

Pem All unit might perform differently, it does not show that the caking will not occur and therefore that the dry system is as reliable as the wet system, nor does it convince us that the Air Force's requirement is unreasonable. As indicated by the Air Force, there is limited experience with the effectiveness of Pem All's residential dry system which has only been sold for residential use for 1 year. Given the legitimate need for an item which has been proven reliable and which will perform its vital safety function, we find the agency has a reasonable basis for its requirement of a wet system.

We conclude that the Air Force has established prima facie support for its specification, particularly in light of its safety concerns, and that Pem All has failed to demonstrate that the specification is clearly unreasonable. We therefore have no basis to object to the Air Force's statement of its minimum needs. We urge the agency to continue to evaluate the experience of users of Pem All's product and to consider allowing Pem All to compete in the future if its product proves satisfactory. We have so advised the Secretary of the Air Force by separate letter of this date.

The protest is denied.


James F. Hinchman
General Counsel