



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Johnson Controls, Inc.

File: B-243605.2; B-244819

Date: November 18, 1991

Douglas O. Smith, Esq., for the protester,
Barry D. Segal, Esq., General Services Administration, for
the agency.
Jennifer Westfall-McGrail, Esq., and Andrew T. Pogany, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

1. Request for reconsideration is denied where protester fails to demonstrate that agency lacked a reasonable basis for requiring integration of a building management and control system (BMCS) to be installed in a federal building in Baton Rouge, Louisiana, with an existing BMCS located at a federal building in New Orleans.
2. Protest raising the same issues as those resolved in a recent protest decision and current reconsideration decision by the same protester and involving the same agency is dismissed as no useful purpose would be served by further consideration of these issues.

DECISION

Johnson Controls, Inc. requests reconsideration of our decision, Johnson Controls, Inc., B-243605, Aug. 1, 1991, 91-2 CPD ¶ 112, in which we denied its protest of allegedly unduly restrictive specifications in invitation for bids (IFB) No. GS-07P-91-HUC-0026, issued by the General Services Administration (GSA) for the construction of a federal building/courthouse in Baton Rouge, Louisiana. Johnson has also filed a second protest alleging that the specifications in IFB No. GS-07P-90-HUC-0076 for construction of a federal building/courthouse in Shreveport, Louisiana, are also unduly restrictive.

We deny the request for reconsideration and dismiss the protest.

RECONSIDERATION

In its initial protest, Johnson objected to the specifications which defined the minimum hardware and

performance requirements for a computer-based building management and control system (BMCS) to be installed in the building. The protester complained that these specifications, which required the successful contractor to integrate the controls of the Baton Rouge facility with an existing BMCS located at the Federal Building Complex in New Orleans, Louisiana, were unduly restrictive of competition since integration of the two systems could be accomplished only by the controls manufacturer of the New Orleans BMCS, which had used a proprietary data communications protocol that precluded interconnection of components from other manufacturers. The protester argued that the agency's minimum needs did not require that the two systems be capable of communicating with one another.

In response, the agency stated that its goal in requiring integration of the two BMCSs was to provide better service to its tenant agencies with greater efficiency and at lower cost. The agency explained that integration of the two systems would allow New Orleans-based personnel, who are on duty 24 hours a day, 7 days a week, to operate the mechanical systems of the Baton Rouge facility while the Baton Rouge mechanics are off duty. According to the agency, this would improve service at the Baton Rouge building by making personnel capable of responding to requests for heating and air conditioning available at all times and save money by reducing expenditures for salaries of Baton Rouge personnel.

The protester did not take issue with the agency regarding the potential benefit of a system that would permit periodic remote operation of the Baton Rouge BMCS from New Orleans. It argued, however, that integration of the two systems was not the only means by which remote operation could be achieved. The protester represented that, in the absence of the interface requirement, it could provide for remote operation of the Baton Rouge BMCS by government personnel in New Orleans.

We concluded that even if the protester could provide for remote operation of the Baton Rouge BMCS from New Orleans without integration of the two systems, there was no evidence that the agency's goal of providing more responsive and efficient service would be served equally well by an alternative system of remote operation. In particular, we concluded that if the two buildings had different BMCSs, the New Orleans-based mechanical engineers would have to be thoroughly familiar with both systems to be able to operate the Baton Rouge facility while the latter's personnel were off duty.

In its request for reconsideration, the protester contends that it is inconsistent with the requirement for full and open competition for us to approve of a proprietary requirement on the ground that it may promote service if operations and maintenance employees are required to be knowledgeable about only one system. The protester maintains that this justification would essentially prohibit any real competition for future products and services once a facility makes a decision about what kind of equipment to purchase.

The protester has misinterpreted the scope of our decision. We did not intend to imply that an agency may restrict competition for items requiring service and/or repair to products with which its staff is already familiar. Rather, our holding was specific to the facts of this particular case, in which the agency's goal was to improve service and reduce costs by having one team of personnel (i.e., the New Orleans-based mechanical engineers) handle two functions (i.e., monitoring of both the New Orleans and the Baton Rouge BMCSs) simultaneously. Since the BMCSs are fairly sophisticated systems and monitoring them will thus be a fairly demanding task, we concluded that it would not be reasonable to expect the New Orleans personnel to operate the two systems at the same time. The protester has presented no evidence in its request for reconsideration that would persuade us otherwise. Thus, it has not met its burden of demonstrating that our previous decision contained an error of fact or law that would warrant its reversal. 4 C.F.R. § 21.12(a) (1991); Corbin Superior Composites, Inc.--Recon., B-242394.4, June 7, 1991, 91-1 CPD ¶ 547. We deny the request for reconsideration.

PROTEST

In its second protest, Johnson raises the identical issues as those resolved in Johnson Controls, Inc., supra, this time with regard to a BMCS to be installed in a federal building/courthouse to be constructed in Shreveport, Louisiana. As in the earlier protest, Johnson contends that the specifications defining the minimum hardware and performance requirements for the BMCS, which require integration of the controls of this project with the existing BMCS at the Federal Office Building Complex in New Orleans, are unduly restrictive of competition. The protester relies on the same arguments that we considered in denying the earlier protest and in denying Johnson's request for reconsideration of that decision. Since the issues raised by Johnson in this protest are the same issues with which we dealt in our previous decision and the current reconsideration, and since the agency has offered the same

justification for the requirement for integration, we see no useful purpose to be served by our further consideration of the protest, Wallace O'Connor, Inc., B-227891, Aug. 31, 1987, 87-2 CPD ¶ 213.

The protest is dismissed.


James F. Hinchman
General Counsel