



Comptroller General
of the United States

454211

Washington, D.C. 20548

Decision

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

File: B-254839

Date: January 21, 1994

Greg Harlow for the protester.

Paul M. Fisher, Esq., Department of the Navy, for the agency.

David Hasfurther, Esq., and Linda C. Glass, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Solicitation requirement for certification by a specified testing laboratory of a radio fire alarm system along with a computer-aided dispatching (CAD) system does not unduly restrict competition, where the requirement was reasonably based on the agency's need to be assured that the radio fire alarm system would function as tested when interfaced with the CAD system being offered so as to provide reliable fire protection for agency personnel.

DECISION

G.H. Harlow Company, Inc. protests as unduly restrictive the equipment certification requirement in invitation for bids (IFB) No. N68378-93-B-0655, issued by the Department of the Navy for the procurement of a base-wide fire alarm and computer-aided dispatching (CAD) system at the Naval Supply Center, Oakland, California.¹

We deny the protest.

The IFB was issued on August 12, 1993; bid opening was scheduled for September 14. The successful contractor was to provide "a complete base-wide Factory Mutual approved and listed radio fire alarm and CAD dispatching system,

¹The CAD system provides an instantaneous response to the fire alarm. It can detect the alarm, interpret the signal, and alert and direct the responding personnel with very specific information about the nature and exact location of the alarm.

complying with NFPA 1221 . . . [which was to be connected with the] existing and new local building fire alarm systems, and sprinkler water flow detectors and manual pull stations" The CAD system was to be interfaced to function automatically with the radio fire alarm receiving consoles.

On September 8, Harlow filed an agency-level protest and objected to the requirements that the transmitter frequency be AM (amplitude modulation) rather than FM (frequency modulation) and that the CAD system be approved by Factory Mutual--the IFB did not contain any other requirements with which any offered CAD system had to comply. By amendment issued on September 14, the bid opening date was postponed indefinitely. By Amendment No. 0003, issued on September 17, the required frequency was changed to FM, specifications governing the CAD system were set out, and bid opening was set for September 28. Six bids were received. Prices ranged from the low price of \$448,407 submitted by King-Fisher Company to \$799,500.

Harlow contends that the requirement that the fire alarm and CAD system be approved by Factory Mutual Engineering and Research (and comply with National Fire Protection Association (NFPA) 1221--"Installation, Maintenance and Use of Public Fire Service Communication Systems") restricts the competition to one or two firms. Harlow argues that the specifications exceed the agency's minimum needs. Harlow notes that Factory Mutual does not list a CAD system as a separate, testable item. Thus, Harlow argues that the fact that one or two companies may have chosen to add an optional CAD system--which is not part of any NFPA 1221 radio fire alarm system requirement--to an approved radio fire alarm system should not preclude consideration of all other radio fire alarm systems with a CAD system that is not Factory Mutual approved.

The agency admits that based on the Factory Mutual listing requirement only two firms could submit acceptable bids on this procurement. (Only one of the two listed firms submitted a bid.) The agency maintains, however, that because the Navy Supply Center will become the sole facility responsible for monitoring the fire and security alarms for the facilities in the Bay Area, it requires a CAD system that can provide instantaneous information regarding fire detection to appropriate responding personnel. In this regard, the agency maintains that the CAD system must interface to function automatically with the radio fire alarm system.

In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit bids in a manner designed to achieve full and open competition, 10 U.S.C. § 2305(1)(A)(i) (1988), and include restrictive provisions or conditions only to the extent necessary to satisfy the agency's needs, 10 U.S.C. § 2305(a)(1)(B)(ii). We will not question the contracting agency's determination of its minimum needs and the best method of accommodating those needs unless it has no reasonable basis. G.H. Harlow Co., Inc., B-245050 et al., Nov. 20, 1991, 91-2 CPD ¶ 484; Glock, Inc., B-236614, Dec. 26, 1989, 89-2 CPD ¶ 593.

We conclude that the agency's requirement for Factory Mutual listing of the CAD system to reasonably reflect the agency's minimum needs. It is clear that the agency seeks some assurance from a source independent of the bidder that the proposed fire alarm and CAD systems work together safely and effectively. Given the impact of the fire alarm equipment on the safety of personnel, the agency could reasonably require that the combined fire alarm/CAD system be certified by a recognized independent testing laboratory. See Tek Contracting, Inc., B-245454, Jan. 6, 1992, 92-1 CPD ¶ 28; Tek Contracting, Inc., B-245590, Jan. 17, 1992, 92-1 CPD ¶ 90; G.H. Harlow Co., Inc., supra. While we recognize that Factory Mutual does not specifically test the CAD system--it tests the fire alarm system with the CAD system to ensure that the fire alarm system will function properly--we have no reason to question the agency's position that a Factory Mutual listing of a radio alarm system with a CAD system interface will ensure that the CAD will be able to process the signals from the particular fire alarm system.

Further, although a requirement for a specific testing laboratory's seal of approval generally is considered unduly restrictive because prospective contractors should be permitted to present other credible evidence that their items conform to the established standards, see Stabbert and Assocs., Inc., B-218427, June 17, 1985, 85-1 CPD ¶ 692, Harlow has not established that it was prejudiced by the RFP restriction to products listed by Factory Mutual. Harlow merely asserts that other acceptable CAD systems exist, not that other fire alarm systems with these CAD systems have been tested by other independent sources. Prejudice is an essential element of a viable protest; since Harlow has not

demonstrated how it was prejudiced by the testing requirement, we deny the protest on this basis. See Association of Soil and Found. Eng'rs, B-209547, May 23, 1983, 83-1 CPD ¶ 551.

Accordingly, the protest is denied.²

Robert P. Murphy
Robert P. Murphy
Acting General Counsel

²Harlow, in its pre-bid opening protest, argued that other specifications for the CAD system listed in Amendment No. 0003 were also restrictive, but did not specifically describe the restrictive specifications. Harlow subsequently, in its October 29 response to the agency report, listed specific instances where the CAD specifications were allegedly restrictive. These allegations, however, concern solicitation improprieties subsequently incorporated in the solicitation by amendment which should have been protested not later than bid opening on September 28. 4 C.F.R. § 21.2(a)(1) (1993).