



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: R&B Equipment Company

File: B-271194

Date: May 22, 1996

Mitch Green for the protester.

Col. Thomas F. Brown, Department of the Air Force, for the agency.

Aldo A. Benejam, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that solicitation for industrial chillers is unduly restrictive of competition because it requires that the compressor bearing housing be equipped with removable access panels is denied where the record shows that the requirement is reasonably based on historical data, including preventive maintenance records and the contracting agency's engineers' personal observations and experience, which support the agency's determination that the panels generally facilitate inspection and repairs on critical components of the chillers, thereby enhancing equipment longevity and reliability, while significantly reducing overall maintenance costs.

DECISION

R&B Equipment Company protests the terms of invitation for bids (IFB) No. F34650-95-B-0037, issued by the Department of the Air Force to replace three 2,000 ton-capacity industrial chillers at Tinker Air Force Base (AFB), Oklahoma. R&B contends that the IFB is unduly restrictive of competition.

We deny the protest.

Amendment No. 4 to the IFB added the following specification:

"Compressor bearing housing shall be provided with removable access/inspection cover plate of sufficient size to permit inspection and replacement of compressor bearings."

According to R&B, none of the manufacturers of industrial chillers can provide equipment that meets the requirement. Specifically, R&B asserts that none of the manufacturers can claim that the compressor bearings on their respective equipment can be inspected or replaced through a removable access plate. R&B further asserts that only one manufacturer, Carrier Corporation, can offer

equipment with "token" access plates. The protester maintains, however, that even Carrier's equipment does not meet the IFB's specification. Nevertheless, R&B concludes that the requirement was written so as to favor Carrier, and that the IFB improperly excludes any other manufacturers from competing.¹

Agencies are required to specify their needs in a manner designed to promote full and open competition, and may only include restrictive provisions in a solicitation to the extent that they are necessary to meet the agency's minimum needs. Pipeliners Sys., Inc., 73 Comp. Gen. 61 (1993), 93-2 CPD ¶ 343. Where a protester alleges that a requirement is unduly restrictive, we will review the record to determine whether the requirement has been justified as reasonably necessary to satisfy the agency's minimum needs. Sunbelt Indus., Inc., B-246850, Mar. 31, 1992, 92-1 CPD ¶ 325. The contracting agency, which is most familiar with its needs and how best to fulfill them, must make the determination as to what its minimum needs are in the first instance, and we will not question that determination unless it has no reasonable basis. Johnson Controls, Inc., B-243605, Aug. 1, 1991, 91-2 CPD ¶ 112. Here, the record supports the agency's determination to require the access panel.

The chillers in question provide year-round climate control to several important computer systems critical to the mission of Tinker AFB. These computer systems are very sensitive to changes in building temperature, requiring a continuous controlled climate for optimal operation. Air Force engineers have calculated the cost of computer failure due to inadequate cooling of these advanced computer systems at more than \$300,000 per hour. Due to the critical nature of the services provided by the computer equipment, and the costs associated with computer "down time," the agency states that its paramount concern in replacing the existing chillers is facilitating the engineers' access to critical components of the equipment, such as the compressor bearings, as well as controlling maintenance costs.

According to the Air Force, the access panels facilitate upkeep of the equipment in several respects, resulting in lower maintenance costs. The agency states that the eight chillers currently operating at Tinker AFB have had preventive maintenance and repairs performed using the access panels. Maintenance records kept by the Air Force show that engineers have used the access covers to perform maintenance on the existing chillers at least 18 times over the last 2 years. In each instance, the

¹Throughout these proceedings, the protester has requested that we obtain statements from various third parties, such as the Army Corps of Engineers and Carrier, which presumably would support R&B's protest allegations. Our Office generally does not conduct independent investigations to substantiate a protester's allegations. Fayetteville Group Practice, Inc., B-226422.5, May 16, 1988, 88-1 CPD ¶ 456; Kisco Co., Inc., B-216646, Jan 18, 1985, 85-1 CPD ¶ 56.

agency explains, equipment "down time" would have been considerably longer and service expenses significantly higher had the chillers not been equipped with the removable access covers.

Specifically, the agency explains that ease of access to the equipment means less time (*i.e.*, labor hours) required for engineers to inspect and replace the compressor bearings, a critical component of the chillers. In response to R&B's protest, Air Force engineering personnel, who are most familiar with the type of maintenance required by the equipment, estimated that with the access covers, inspecting the bearings on one chiller would require approximately 8 hours, and replacing them would require about 16 hours. Without the access panels, inspecting the bearings on one unit would take approximately 80 hours, while replacing them would require about 100 hours. According to the agency, the access panels therefore would save a total of at least 216 hours of maintenance time each year, and would save about 84 hours each time the bearings are replaced.

The agency further states that the time saved performing routine maintenance and emergency maintenance is directly related to lower maintenance costs. In this connection, the agency calculates that, based on the repair records for the eight existing chillers at Tinker AFB, maintenance over the 30-year expected life of the equipment (without the access panels) would cost more than \$100,000 per chiller over the cost of chillers with the access panels. According to the Air Force, these calculations do not include the cost of additional training that would be required to familiarize personnel with procedures for disassembling the compressors to access the bearings; this is an additional expense not required with the access panels. The protester does not dispute the agency's calculations of labor hour savings or estimates of maintenance costs, and we see no basis to question the agency's own experts' estimates in this regard.

The protester's arguments that no manufacturer can provide chillers with the required access panels, or that the access panels do not provide any of the advantages claimed by the Air Force, are not supported by the record. The record contains manufacturers' literature showing that at least two different manufacturers claim to provide equipment with features specifically designed to facilitate the inspection of bearings and gear without requiring the disassembly of their respective chillers. In addition, contrary to the protester's assertions, Air Force maintenance records show that engineers have, in fact, inspected and replaced compressor bearings on the existing chillers through access panels. The agency further explains that with the access covers, maintenance engineers have been able to observe the bearings directly, confirm and diagnose problems while they are occurring, and take appropriate actions to prevent major compressor bearing-related failures.

The protester argues that the agency's assumptions underlying its position that the access panels simplify maintenance and improve equipment reliability are flawed.

R&B maintains that the proper method for detecting problems with the bearings is by analyzing oil samples, monitoring on-line vibration of the equipment, and by continuous microprocessor monitoring. The protester also asserts that the access panel is merely another feature that could cause other problems, such as refrigerant leaks, and questions how a damaged chiller could be repaired through the access panel. The protester also maintains that the requirement is unduly restrictive of competition and unnecessary since other military installations using industrial chillers have not required the access panels in the past. In summary, the protester takes the position that the access panels do not provide the advantages claimed by the Air Force, and contends that the agency's reliance on the access panels to argue that the requirement will facilitate equipment inspection or maintenance is misplaced.

As is evident by the maintenance records for the existing chillers, it is clear that the Air Force engineers have found that the panels facilitate equipment maintenance in several respects. In addition to the maintenance records, the agency provided a short videotape recording² showing how the panel on a current chiller, once removed, facilitates access to critical components of the equipment. With respect to the protester's argument that the access panels could provide an opportunity for a refrigerant leak, the agency explains that an access cover is not the only place where such a leak could occur and that if there were a leak through a seal in the compressor, an access cover would allow replacing the seal without disassembling the entire compressor housing. The agency further states that different types of failures require different repairs, some which could be more easily effected through the required removable access ports. The protester does not dispute the agency's assertions in this regard.

In essence, the protester's position simply reflects its disagreement with the expert opinion of the agency's engineers. We will not substitute our technical judgment for the contracting agency's technical judgment unless its conclusions are shown to be arbitrary or otherwise unreasonable. Teledyne Brown Eng'g, Inc., B-237368, Feb. 16, 1990, 90-1 CPD ¶ 285. As discussed above, the record here reasonably supports the agency's decision to require access panels based on its experience showing that the panels reduced the time and expense associated with maintenance of the chillers. R&B's disagreement with the agency's technical judgment concerning the benefits derived from having removable access panels on the compressor housing is not a

²Pursuant to our Bid Protest Regulations, 4 C.F.R. § 21.3(i) (1996), our Office granted the Air Force's request to supplement the record with, among other things, a short (approximately 14 minutes) videotaped recording showing an Air Force engineer removing the access panel on an existing chiller at Tinker AFB and briefly describing the observable components; the protester responded to the agency's supplemental filing with written comments.

basis for sustaining the protest. See Xerox Corp., B-236072.2 et al., Nov. 29, 1989, 89-2 CPD ¶ 502.

Further, we are not persuaded by the protester's argument that the requirement is restrictive simply because other contracting activities have not required removable access panels in the past. Each procurement action is a separate transaction and the action taken under one is not relevant to the propriety of the action taken under another procurement for purposes of a bid protest. Westbrook Indus., Inc., B-248854, Sept. 28, 1992, 92-2 CPD ¶ 213. In other words, the fact that other military installations believed--correctly or incorrectly--that chillers without the removable access panels adequately met their minimum needs in the past has no effect on the reasonableness of the Air Force's conclusion here that chillers with access panels meets its minimum needs. Requiring agencies to fashion every procurement based on prior practices and without regard to technological advances or mechanical improvements would create an overwhelming burden on the agency's ability to procure supplies and services that are necessary to meet its minimum needs. See Komatsu Dresser Co., B-251944, May 5, 1993, 93-1 CPD ¶ 369. Although R&B expresses its disagreement with the Air Force's determination of its minimum needs, we have no basis upon which to question the propriety of the specification.

The protest is denied.

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